




## Memorandum

November 11, 2011

TO: Mr. John Beckstrom  
Ms. Annamarie Brennhofer  
Mr. Bill Bresin  
Mr. Jim Caldwell  
Mr. Joe Grafft  
Ms. Julie Greiman  
Mr. Eric Jordahl  
Dr. Ben Lewis  
Ms. Kathy McMorrow  
Ms. Karen Morehead  
Mr. Neil Peterson  
Ms. Deborah Wall

FROM: Donna M. Friedmann   
Director of Administration & Human Resources

SUBJ: POLICY COMMITTEE MEETING

The next meeting of the Policy Committee will be held promptly at 8:00 p.m. on Thursday, November 17, 2011, in the Board Room at the District Office. The agenda for this meeting is enclosed. Please contact me at 651/982-8123 if you are unable to attend this meeting.

DF/kk

cc: Linda Madsen, Superintendent  
Kathy Bystrom, School Board  
Dan Kieger, School Board  
Rob Rapheal, School Board  
Erin Turner, School Board  
Press (3)

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*Forest Lake Area Schools • Independent School District 831 • Equal Opportunity Employer*

INDEPENDENT SCHOOL DISTRICT NO. 831  
Forest Lake, Minnesota 55025

***Policy Committee Meeting***  
***November 17, 2011 – 8:00 p.m. – District Office Board Room***

***AGENDA***

1. Graduation Requirements Policy 613 – Review Requested by Jennifer Tolzmann
  2. Transportation Employee Drug and Alcohol Policy 430 – Review Requested by John Gray
  3. Student Transportation Safety Policy 531 – Annual Review
  4. Technology Acceptable Use and Safety Policy 540 – Annual Review
  5. Use of Peace Officers and Crisis Teams to Remove Students with IEPs from School Grounds Policy 544 – Review requested by Deb Wall
6. Wellness Policy 546 – Pending
  7. Consideration of Other Policies to be Scheduled for Review
  8. Other Matters
  9. Annual Policy Reviews
    - Anti-Bullying Policy 541 (December 2011)
    - School Board Member Reimbursement Guidelines Policy 103A (December 2011)
    - Out-of-State Travel by School Board Members Policy 103B (December 2011)
    - Crisis Management Policy 538 (February 2012)
    - Discipline Policy 515 (April 2012)
    - Harassment and Violence Policy 425 (April 2012)
    - Wellness Policy 546 (May 2012)
    - Family & Medical Leave Policy 428 (September 2012)
    - Mandated Reporting of Maltreatment of Vulnerable Adults Policy 414 (September 2012)
    - Mandated Reporting of Child Neglect or Physical or Sexual Abuse Policy 522 (September 2012)
    - Student Sex Nondiscrimination Policy 421 (October 2012)
    - Student Transportation Safety Policy 531 (November 2012)
    - Technology Acceptable Use and Safety Policy 540 (November 2012)
  10. Future Policy Review
    - Naming of School Buildings or Portions Thereof Such as Naming a Gymnasium
    - Random Drug Testing
  11. Policies at School Board for Action on 11/3/11
    - Mandated Reporting of Maltreatment of Vulnerable Adults – Policy 414 (Approved)
    - Mandated Reporting of Child Neglect or Physical or Sexual Abuse – Policy 522 (Approved)
    - Family and Medical Leave Policy 428 (1<sup>st</sup> reading)
    - Student Disability Nondiscrimination Policy 536 (1<sup>st</sup> reading)
    - Student Sex Nondiscrimination Policy 421 (1<sup>st</sup> reading)
    - Physical Examinations Policy 508 (1<sup>st</sup> reading)
    - Consider Discontinuance of Policy 506 – Disorders During School Day or at Scheduled Activities (Approved)
    - Consider Discontinuance of Policy 310 – Checking Accounts (Approved)

**I. PURPOSE**

The purpose of this policy is to set forth requirements for graduation from the school district.

**II. GENERAL STATEMENT OF POLICY**

It is the policy of the school district that all students must pass the Minnesota Graduation Basic Standards tests in Reading, Mathematics, and Written Composition as per state requirements or higher guidelines and must satisfactorily complete, as determined by the school district, all course credit requirements and graduation standards, as established by the school board, in order to graduate unless a student's Individualized Education Program describes a different standard.

**III. DEFINITIONS**

- A. "Course credit" is equivalent to a student's successful completion of an academic year of study or a student's mastery of the applicable subject matter, as determined by the school district.
- B. "Department" means the Department of Education.
- C. "Unit" means a unit measuring education achievement based on successfully completing the requirements of a given course of study.
- D. "Section 504 Accommodation" means the defined appropriate accommodations or modifications that must be made in the school environment to address the needs of an individual student with disabilities.
- E. "Individualized Education Program," or "IEP," means a written statement developed for a student eligible by law for special education and services.
- F. "Limited English Proficient" or "LEP" student means an individual whose first language is not English and whose test performance may be negatively impacted by lack of English language proficiency.

**IV. TEST ADMINISTRATOR**

The Director of Teaching and Learning shall be named the school district test administrator. Said person shall be in charge of all test procedures and shall bring recommendations to the school board annually for approval.

**V. REQUIREMENTS FOR GRADUATION BEGINNING WITH THE 2007-08 SCHOOL YEAR THROUGH 2010-11 AND THEREAFTER**

- A. All students must pass the Minnesota Graduation Basic Standards tests in Reading, Mathematics, and Written Composition as per state requirements in order to graduate,
- B. All students must complete the course work as required to meet the State Standards in grades 7 and 8 effective at the beginning of the 2011-12 school year.

	7th Grade	8th Grade
Math	1 credit	1 credit
Science	1 credit	1 credit
Language Arts	1 credit	1 credit
Social Studies	1 credit	1 credit
PE/Health	1 credit	1 credit
Agriculture	0 credit	0.5 or 1.0 elective
Art	0.5 elective	0.5 or 1.0 elective
Business	0.5 elective	0.5 or 1.0 elective
FACS	0.5 elective	0.5 or 1.0 elective
Ind. Tech.	0.5 elective	0.5 or 1.0 elective
Music	0.5 or 1.0 elective	0.5 or 1.0 elective
World Lang.	0 credit	0.5 or 1.0 elective
RtI Reading	0.5 or 1.0 elective	0.5 or 1.0 elective
RtI Math	0.5 or 1.0 elective	0.5 or 1.0 elective
Elective Choice	2 credits	2 credits
Total Credits	7	7

- C. All 9-12 students must successfully engage in an appropriate number of credits as minimally defined by state statute.

9th - 12th Grade	
Math	3 credits
Science	3.5 credits
Language Arts	4 credits
Social Studies	3-5 credits
<b>* Economics</b>	<b>0.5 credit</b>
PE/Health	1.5 credits
Agriculture	0 credit
Art	0 credit
Business	0 credit
FACS	0 credit
Ind. Tech.	0 credit
Music	0 credit
The Arts	1 credit
World Lang.	0 credit
Electives	9.5 credits
Credits for Graduation	26/28
<b>* This credit may be fulfilled in Social Studies, Business or Agriculture.</b>	

- D. Seventh or eighth grade students who successfully complete a course offered in grades 9-12 will also receive elective/required credit.
- E. A student must also:  
Complete the required number of credits in grades 9 - 12.  
2008 & 2009 Graduating Classes: 28 total credits are required.  
2010 Graduating Class: 27 total credits are required.  
2011 Graduating Class and Thereafter: 26 total credits are required.  
These must include:

Language Arts – Four credits

9<sup>th</sup> Grade English (1 credit)

10<sup>th</sup> Grade English (1/2 credit)

Modern American Voices or Modern American Literature (1/2 credit)

Basic Communication or Speech (1/2 credit)

Effective starting with the 2008-09 school year:

College-Prep Composition, CIS University Writing and Critical Reading, Creative Writing, Technical Writing, or Journalism (1/2 credit)

The remaining Language Arts credits may be selected from any of the Language Arts Courses at the Senior High School.

Social Studies – Three and one-half credits

9<sup>th</sup> Grade Civics (1/2 credit) and 9<sup>th</sup> Grade Careers (1/2 credit)

U.S. History I and U.S. History II (1 credit)

World History (1 credit)

~~Economics (1/2 credit)~~

Economics – One-half credit

**This credit may be fulfilled in Social Studies, Business of Agriculture**

Mathematics – Three credits

Core I (1 credit)

Core II (1 credit)

Core III (1 credit)

OR

Algebra I (1 credit)

Geometry (1 credit)

Algebra II (1 credit)

Science – Three and one-half credits

9<sup>th</sup> Grade Science (1 credit)

Biology (1 credit)

Chemistry (1 credit) or Physics (1 credit)

Earth Science (1/2 credit)

The Arts – One Credit  
9<sup>th</sup> Grade – 12<sup>th</sup> Grade (1 credit)

Physical Education – One credit  
9<sup>th</sup> Grade (1/2 credit)  
10<sup>th</sup> Grade (1/2 credit)

Health – One-half credit

Elective Credits

2010 Graduating Class – 10 credits  
2011 Graduating Class and Thereafter – 9 credits  
2015 Graduating Class and Thereafter – 9.5 credits  
The electives credits may be selected from any department in grades 9-12.

Total Graduation Requirements must be met by the last day of the school year in order for a student to participate in commencement ceremonies.

or

F. Have met the requirements of an I.E.P., a 504 Plan or an L.E.P. Plan.

## VI. EARLY GRADUATION

Students may be considered for early graduation, as provided for within Minn. Stat. § 120B.07, upon meeting the following conditions:

1. All credit and basic skill test requirements must be met.
2. The principal or designee shall conduct an interview with the student and parent or guardian, familiarize the parties with opportunities available in post-secondary education, and arrive at a timely decision.
3. The principal's decision shall be in writing and may be subject to review by the superintendent and school board.

## VII. NOTICE

The school district will notify students and their parents of the school district's graduation requirements within 30 working days of a student's entry into ninth grade. The school district also will notify students in grades 9-12 in 2003-2004 or who transfer into the district and their parents of the school district's transition to the course credit system and options for students in grades 9 and above in 2003-2004 regarding locally established graduation requirements within 30 working days.



ADOPTED: 07/06/98  
REVISED: 03/06/00  
REVISED: 12/04/00  
REVISED: 05/07/01  
REVISED: 12/01/03  
REVISED: 06/02/05  
REVISED: 01/03/08  
REVISED: 05/06/10  
REVISED: 12/02/10

**JOHN GRAY IS RECOMMENDING THAT OUR CURRENT POLICY 430 –  
TRANSPORTATION EMPLOYEE DRUG & ALCOHOL POLICY BE REPLACED WITH  
THIS MSBA MODEL POLICY WITH THE CHANGES NOTED**

Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 416

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2009

**~~416~~ TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL TESTING POLICY**

*[Note: Drug and Alcohol Testing of school bus drivers and applicants is mandatory under federal law. The mandatory testing is described under Part III. of the policy. Testing of other employees or testing of school bus drivers beyond that mandated by federal law is optional but can be done under state law only if a policy containing provisions such as the provisions of Part IV. of this policy are adopted. To preserve the right to request or require school district employees who are not bus drivers and applicants to undergo drug and/or alcohol testing or to require bus drivers to submit to testing that is not federally mandated, a school district should adopt Part IV. as part of its drug and alcohol testing policy.]*

**I. PURPOSE**

- A. The school board recognizes the significant problems created by drug and alcohol use in society in general, and the public schools in particular. The school board further recognizes the important contribution that the public schools have in shaping the youth of today into the adults of tomorrow.
- B. The school board believes that a work environment free of drug and alcohol use will be not only safer, healthier, and more productive but also more conducive to effective learning. Therefore, to provide such an environment, the purpose of this policy is to provide authority so that the school board may require all employees and/or job applicants to submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in federal law and Minn. Stat. §§ 181.950-181.957.

**II. GENERAL STATEMENT OF POLICY**

- A. All school district employees and job applicants whose positions require a commercial driver's license will be required to undergo drug and alcohol testing in accordance with federal law and the applicable provisions of this policy. The school district also may request or require that drivers submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957.
- B. The school district may request or require that any school district employee or job applicant, other than an employee or applicant whose position requires a commercial driver's license, submit to drug and alcohol testing in accordance



with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957.

- C. The use, possession, sale, purchase, transfer, or dispensing of any drugs not medically prescribed is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of drugs which are not medically prescribed is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of drugs which are not medically prescribed are prohibited from entering or remaining on school district property.
- D. The use, possession, sale, purchase, transfer, or dispensing of alcohol is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of alcohol is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of alcohol are prohibited from entering or remaining on school district property.
- E. Any employee who violates this section shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge.

### **III. FEDERALLY MANDATED DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS**

#### **A. General Statement of Policy**

All persons subject to commercial driver's license requirements shall be tested for alcohol, marijuana, cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP), pursuant to federal law. Drivers who test positive for alcohol or drugs shall be subject to disciplinary action, which may include termination of employment.

#### **B. Definitions**

1. "Actual Knowledge" means actual knowledge by the school district that a driver has used alcohol or controlled substances based on: (a) direct observation of the employee's use (not observation of behavior sufficient to warrant reasonable suspicion testing); (b) information provided by a previous employer; (c) a traffic citation; or (d) an employee's admission, except when made in connection with a qualified employee self-admission program.
2. "Alcohol Screening Device" (ASD) means a breath or saliva device, other than an Evidential Breath Testing Device (EBT), that is approved by the

National Highway Traffic Safety Administration and placed on its Conforming Products List for such devices.

3. "Breath Alcohol Technician" (BAT) means an individual who instructs and assists individuals in the alcohol testing process and who operates the EBT.
4. "Commercial Motor Vehicle" (CMV) includes a vehicle which is designed to transport 16 or more passengers, including the driver.
5. "Designated Employer Representative" (DER) means a designated school district representative authorized to take immediate action to remove employees from safety-sensitive duties, to make required decisions in the testing and evaluation process, and to receive test results and other communications for the school district.
6. "Department of Transportation" (DOT) means United States Department of Transportation.
7. "Driver" is any person who operates a CMV, including full-time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers, and independent owner-operator contractors.
8. "Evidential Breath Testing Device" (EBT) means a device approved by the National Highway Traffic Safety Administration for the evidentiary testing of breath for alcohol concentration and placed on its Conforming Products List for such devices.
9. "Medical Review Officer" (MRO) means a licensed physician responsible for receiving and reviewing laboratory results generated by the school district's drug testing program and for evaluating medical explanations for certain drug tests.
10. "Refusal to Submit" (to an alcohol or controlled substances test) means that a driver: (a) fails to appear for any test within a reasonable time, as determined by the school district, consistent with applicable DOT regulations, after being directed to do so; (b) fails to remain at the testing site until the testing process is complete; (c) fails to provide a urine specimen or an adequate amount of saliva or breath for any DOT drug or alcohol test; (d) fails to permit the observation or monitoring of the driver's provision of a specimen in the case of a directly observed or monitored collection in a drug test; (e) fails to provide a sufficient breath specimen or sufficient amount of urine when directed and a determination has been made that no adequate medical explanation for the failure exists; (f) fails or declines to take an additional test as directed; (g) fails to undergo a medical examination or evaluation, as directed by the MRO or the DER; (h) fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a

confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector, fails to sign the certification on the forms); (i) fails to follow the observer's instructions, in an observed collection, to raise the driver's clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process; (j) possesses or wears a prosthetic or other device that could be used to interfere with the collection process; (k) admits to the collector or MRO that the driver adulterated or substituted the specimen; or (l) is reported by the MRO as having a verified adulterated or substituted test result. An applicant who fails to appear for a pre-employment test, who leaves the testing site before the pre-employment testing process commences, or who does not provide a urine specimen because he or she has left before it commences is not deemed to have refused to submit to testing.

11. "Safety-sensitive functions" are on-duty functions from the time the driver begins work or is required to be in readiness to work until relieved from work, and include such functions as driving, loading and unloading vehicles, or supervising or assisting in the loading or unloading of vehicles, servicing, repairing, obtaining assistance to repair, or remaining in attendance during the repair of a disabled vehicle.
12. "Screening Test Technician" (STT) means anyone who instructs and assists individuals in the alcohol testing process and operates an ASD.
13. "Stand Down" means to temporarily remove an employee from performing safety-sensitive functions after a laboratory reports a confirmed positive, an adulterated, or a substituted test result but before the MRO completes the verification process.
14. "Substance Abuse Professional" (SAP) means a qualified person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

C. Policy and Educational Materials

***[Note: The federal regulations require that school districts provide materials to bus drivers explaining the school district's policies and procedures and the federal requirements with respect to the mandatory drug and alcohol testing of bus drivers. 49 C.F.R. § 382.601. Almost all of the required information is contained within this model policy. Additional materials to be provided to employees are described in Paragraph 2. of this Section C.]***

1. The school district shall provide a copy of this policy and procedures to each driver prior to the start of its alcohol and drug testing program and to each driver subsequently hired or transferred into a position requiring

driving of a CMV.

2. The school district shall provide to each driver information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or drug problem; and available methods of intervening when an alcohol or drug problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.
3. The school district shall provide written notice to representatives of employee organizations that the information described above is available.
4. The school district shall require each driver to sign a statement certifying that he or she has received a copy of the policy and materials. This statement should be in the form of Attachment A to this policy. The school district will maintain the original signed certificate and will provide a copy to the driver if the driver so requests.

***[Note: The federal regulations require a school district to obtain a signed statement from each driver certifying that he or she has received a copy of these materials. 49 C.F.R. § 382.601(d). The original signed certificate must be maintained by the school district and a copy may be provided to the driver.]***

D. Alcohol and Controlled Substances Testing Program Manager

***[Note: School districts are required by the federal regulations to designate a person to answer driver questions about the policy and the education materials described in Section C. above and to notify the drivers of the designation. 49 C.F.R. § 382.601(b)(1).]***

1. The program manager will coordinate the implementation, direction, and administration of the alcohol and controlled substances testing policy for bus drivers. The program manager is the principal contact for the collection site, the testing laboratory, the MRO, the BAT, the SAP, and the person submitting to the test. Employee questions concerning this policy shall be directed to the program manager.
2. The school district shall designate a program manager and provide written notice of the designation to each driver along with this policy.

E. Specific Prohibitions for Drivers

***[Note: The specific prohibitions for drivers are contained, in large part, in 49 C.F.R. §§ 382.201-382.215.]***

1. Alcohol Concentration. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers who test greater than



0.04 will be taken out of service and will be subject to evaluation by a professional and retesting at the driver's expense.

2. Alcohol Possession. No driver shall be on duty or operate a CMV while the driver possesses alcohol.
3. On-Duty Use. No driver shall use alcohol while performing safety-sensitive functions.
4. Pre-Duty Use. No driver shall perform safety-sensitive functions within four (4) hours after using alcohol.
5. Use Following an Accident. No driver required to take a post-accident test shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever occurs first.
6. Refusal to Submit to a Required Test. No driver shall refuse to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements. A verified adulterated or substituted drug test shall be considered a refusal to test.
7. Use of Controlled Substances. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to instructions (which have been presented to the school district) from a licensed physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV.
8. Positive, Adulterated, or Substituted Test for Controlled Substance. No driver shall report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive for controlled substances or has adulterated or substituted a test specimen for controlled substances.
9. General Prohibition. Drivers are also subject to the general policies and procedures of the school district which prohibit the possession, transfer, sale, exchange, reporting to work under the influence of drugs or alcohol, and consumption of drugs or alcohol while at work or while on school district premises or operating any school district vehicle, machinery, or equipment.

F. Other Alcohol-Related Conduct

***[Note: Consequences for drivers engaging in alcohol-related conduct are described in the federal regulations. 49 C.F.R. § 382.505.]***

No driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform safety-sensitive functions for at least twenty-four (24) hours

following administration of the test. The school district will not take any action under this policy other than removal from safety-sensitive functions based solely on test results showing an alcohol concentration of less than 0.04 but may take action otherwise consistent with law and policy of the school district.

G. Prescription Drugs

A driver shall inform his or her supervisor if at any time the driver is using a controlled substance pursuant to a physician's prescription. The physician's instructions shall be presented to the school district upon request. Use of a prescription drug shall be allowed if the physician has advised the driver that the prescribed drug will not adversely affect the driver's ability to safely operate a CMV.

H. Testing Requirements

1. Pre-Employment Testing

***[Note: 49 C.F.R. § 382.301 details the requirements for pre-employment testing.]***

- a. A driver applicant shall undergo testing for [alcohol and] controlled substances before the first time the driver performs safety-sensitive functions for the school district.

***[Note: A school district is permitted, but not required, to conduct pre-employment testing for the use of alcohol. If a school district elects to require pre-employment testing for alcohol, it should include the bracketed text in Subparagraph a., above, and test all applicants uniformly.]***

- b. Tests shall be conducted only after the applicant has received a conditional offer of employment.
- c. In order to be hired, the applicant must test negative and must sign an agreement in the form of Attachment B to this policy, authorizing former employers to release to the school district all information on the applicant's alcohol tests with results of blood alcohol concentration of 0.04 or higher, or verified positive results for controlled substances, or refusals to be tested (including verified adulterated or substituted drug test results), or any other violations of DOT agency drug and alcohol testing regulations, or, if the applicant violated the testing regulations, documentation of the applicant's successful completion of DOT return-to-duty requirements (including follow-up tests), within the preceding two (2) years.

***[Note: The federal regulations require school districts to inquire about,***



***obtain, and review alcohol and controlled substances information from prior employers pursuant to a driver's written authorization, prior to the time a driver performs safety-sensitive functions, if feasible. 49 C.F.R. § 382.413 and 49 C.F.R. § 40.25. If not feasible, school districts must not permit the employee to perform safety-sensitive functions for more than thirty (30) days from the date a safety-sensitive function was performed unless the school districts make good faith efforts to obtain the information and to make a record of those efforts to be retained in the driver's qualification file.]***

- d. The applicant also must be asked whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee, during the last two (2) years, applied for, but did not obtain, safety-sensitive transportation work covered by DOT testing rules.

2. Post-Accident Testing

***[Note: 49 C.F.R. § 382.303 governs post-accident testing of drivers.]***

- a. As soon as practicable following an accident involving a CMV, the school district shall test the driver for alcohol and controlled substances if the accident involved the loss of human life or if the driver receives a citation for a moving traffic violation arising from an accident which results in bodily injury or disabling damage to a motor vehicle.
- b. Drivers should be tested for alcohol use within two (2) hours and no later than eight (8) hours after the accident.
- c. Drivers should be tested for controlled substances no later than thirty-two (32) hours after the accident.
- d. A driver subject to post-accident testing must remain available for testing, or shall be considered to have refused to submit to the test.
- e. If a post-accident alcohol test is not administered within two (2) hours following the accident, the school district shall prepare and maintain on file a record stating the reasons the test was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours.
- f. If a post-accident alcohol test is not administered within eight (8) hours following the accident or a post-accident controlled substances test is not administered within thirty-two (32) hours following the accident, the school district shall cease attempts to administer the test, and prepare and maintain on file a record stating the reasons for not administering the test.

3. Random Testing

***[Note: 49 C.F.R. § 382.305 governs random testing of drivers.]***

- a. The school district shall conduct tests on a random basis at unannounced times throughout the year, as required by the federal regulations.

***[Note: The Federal Highway Administration (FHWA) lowered the random alcohol selection and testing rate from 25% of the average number of driver positions to 10% in 1998 and evaluates this minimum percentage each year. School districts can elect to stay at 25% (or a higher percentage) if they do not want to monitor the minimum annual percentage rate set by the FHWA. The random controlled substances selection and testing rate has remained at 50% each year and has not been lowered to 25% as is possible under the regulations.]***

- b. The school district shall test for alcohol at a minimum annual percentage rate of 10% of the average number of driver positions, and for controlled substances, at a minimum annual percentage of 50%.
- c. The school district shall adopt a scientifically valid method for selecting drivers for testing, such as random number table or a computer-based random number generator that is matched with identifying numbers of the drivers. Each driver shall have an equal chance of being tested each time selections are made.
- d. Random tests shall be unannounced. Dates for administering random tests shall be spread reasonably throughout the calendar year.
- e. Drivers shall proceed immediately to the collection site upon notification of selection; provided, however, that if the driver is performing a safety-sensitive function, other than driving, at the time of notification, the driver shall cease to perform the function and proceed to the collection site as soon as possible.

4. Reasonable Suspicion Testing

***[Note: 49 C.F.R. § 382.307 governs reasonable suspicion testing of drivers.]***

- a. The school district shall require a driver to submit to an alcohol test and/or controlled substances test when a supervisor or school district official, who has been trained in accordance with the regulations, has reasonable suspicion to believe that the driver has

used alcohol and/or controlled substances on duty or within four (4) hours before coming on duty. The test shall be done as soon as practicable following the observation of the behavior indicative of the use of controlled substances or alcohol.

- b. The reasonable suspicion determination must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech, or body odors. The required observations for reasonable suspicion of a controlled substances violation may include indications of the chronic and withdrawal effects of controlled substances.
- c. Alcohol testing shall be administered within two (2) hours following a determination of reasonable suspicion. If it is not done within two (2) hours, the school district shall prepare and maintain a record explaining why it was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours. If an alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the school district shall cease attempts to administer the test and state in the record the reasons for not administering the test.
- d. The supervisor or school district official who makes observations leading to a controlled substances reasonable suspicion test shall make and sign a written record of the observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

***[Note: 49 C.F.R. §§ 382.309, 40.23(d), and 40.305 govern return-to-duty testing.]***

- 5. Return-To-Duty Testing. A driver found to have violated this policy shall not return to work until an SAP has determined the employee has successfully complied with prescribed education and/or treatment and until undergoing return-to-duty tests indicating an alcohol concentration of less than 0.02 and a confirmed negative result for the use of controlled substances.

***[Note: 49 C.F.R. §§ 382.311, 40.307, and 40.309 govern follow-up testing.]***

- 6. Follow-Up Testing. When an SAP has determined that a driver is in need of assistance in resolving problems with alcohol and/or controlled substances, the driver shall be subject to unannounced follow-up testing as directed by the SAP for up to sixty (60) months after completing a treatment program.

- 7. Refusal to Submit and Attendant Consequences

***[Note: Consequences for refusals to submit to required drug and alcohol tests are addressed generally in 49 C.F.R. §§ 40.191, 40.261, and 382.211. They are more specifically addressed in 49 C.F.R. §§ 382.501-382.507 and in 49 U.S.C. § 521(b).]***

- a. A driver or driver applicant may refuse to submit to drug and alcohol testing.
- b. Refusal to submit to a required drug or alcohol test subjects the driver or driver applicant to the consequences specified in federal regulations as well as the civil and/or criminal penalty provisions of 49 U.S.C. § 521(b). In addition, a refusal to submit to testing establishes a presumption that the driver or driver applicant would test positive if a test were conducted and makes the driver or driver applicant subject to discipline or disqualification under this policy.
- c. A driver applicant who refuses to submit to testing shall be disqualified from further consideration for the conditionally offered position.
- d. An employee who refuses to submit to testing shall not be permitted to perform safety-sensitive functions and will be considered insubordinate and subject to disciplinary action, up to and including dismissal. If an employee is offered an opportunity to return to a DOT safety-sensitive duty, the employee will be evaluated by an SAP and must submit to a return-to-duty test prior to being considered for reassignment to safety-sensitive functions.
- e. Drivers or driver applicants who refuse to submit to required testing will be required to sign Attachment C to this policy.

## **I. Testing Procedures**

### **1. Drug Testing**

***[Note: The Federal Drug Testing Custody and Control Form (CCF) must be used to document every urine collection required by the DOT drug testing program. 49 C.F.R. § 40.45.]***

- a. Drug testing is conducted by analyzing a donor's urine specimen. Split urine samples will be collected in accordance with federal regulations. The donor will provide a urine sample at a designated collection site. The collection site personnel will then pour the sample into two sample bottles, labeled "primary" and "split," seal the specimen bottles, complete the chain of custody form, and prepare the specimen bottles for shipment to the testing laboratory for analysis. The specimen preparation shall be conducted in sight



of the donor.

- b. If the donor is unable to provide the appropriate quantity of urine, the collection site person shall instruct the individual to drink up to forty (40) ounces of fluid distributed reasonably through a period of up to three (3) hours to attempt to provide a sample. If the individual is still unable to provide a complete sample, the test shall be discontinued and the school district notified. The DER shall refer the donor for a medical evaluation to determine if the donor's inability to provide a specimen is genuine or constitutes a refusal to test. For pre-employment testing, the school district may elect to not have a referral made, and revoke the employment offer.
- c. Drug test results are reported directly to the MRO by the testing laboratory. The MRO reports the results to the DER. If the results are negative, the school district is informed and no further action is necessary. If the test result is confirmed positive, adulterated, substituted, or invalid, the MRO shall give the donor an opportunity to discuss the test result. The MRO will contact the donor directly, on a confidential basis, to determine whether the donor wishes to discuss the test result. The MRO shall notify each donor that the donor has seventy-two (72) hours from the time of notification in which to request a test of the split specimen at the donor's expense. No split specimen testing is done for an invalid result.
- d. If the donor requests an analysis of the split specimen within seventy-two (72) hours of having been informed of a confirmed positive test, the MRO shall direct, in writing, the laboratory to provide the split specimen to another Department of Health and Human Services – SAMHSA certified laboratory for analysis. If the donor has not contacted the MRO within seventy-two (72) hours, the donor may present the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the confirmed positive test, or other circumstances unavoidably prevented the donor from timely making contact. If the MRO concludes that a legitimate explanation for the donor's failure to contact him/her within seventy-two (72) hours exists, the MRO shall direct the analysis of the split specimen. The MRO will review the confirmed positive test result to determine whether an acceptable medical reason for the positive result exists. The MRO shall confirm and report a positive test result to the DER and the employee when no legitimate medical reason for a positive test result as received from the testing laboratory exists.
- e. If, after making reasonable efforts and documenting those efforts, the MRO is unable to reach the donor directly, the MRO must contact the DER who will direct the donor to contact the MRO. If

the DER is unable to contact the donor, the donor will be suspended from performing safety-sensitive functions.

- f. The MRO may confirm the test as a positive without having communicated directly with the donor about the test results under the following circumstances:
  - (1) The donor expressly declines the opportunity to discuss the test results;
  - (2) The donor has not contacted the MRO within seventy-two (72) hours of being instructed to do so by the DER; or
  - (3) The MRO and the DER, after making and documenting all reasonable efforts, have not been able to contact the donor within ten (10) days of the date the confirmed test result was received from the laboratory.

## 2. Alcohol Testing

***[Note: The DOT Alcohol Testing Form (ATF) must be used for every DOT alcohol test. 49 C.F.R. § 40.225]***

- a. The federal alcohol testing regulations require testing to be administered by a BAT using an EBT or an STT using an ASD. EBTs and ASDs can be used for screening tests but only EBTs can be used for confirmation tests.
- b. Any test result less than 0.02 alcohol concentration is considered a "negative" test.
- c. If the donor is unable to provide sufficient saliva for an ASD, the DER will immediately arrange to use an EBT. If the donor attempts and fails to provide an adequate amount of breath, the school district will direct the donor to obtain a written evaluation from a licensed physician to determine if the donor's inability to provide a breath sample is genuine or constitutes a refusal to test.
- d. If the screening test results show alcohol concentration of 0.02 or higher, a confirmatory test conducted on an EBT will be required to be performed between fifteen (15) and thirty (30) minutes after the completion of the screening test.
- e. Alcohol tests are reported directly to the DER.

## J. Driver/Driver Applicant Rights

- 1. All drivers and driver applicants subject to the controlled substances



testing provisions of this policy who receive a confirmed positive test result for the use of controlled substances have the right to request, at the driver's or driver applicant's expense, a confirming retest of the split urine sample. If the confirming retest is negative, no adverse action will be taken against the driver, and a driver applicant will be considered for employment.

***[Note: The limitation on discharge in Paragraph 2., below, is contained solely in Minnesota law. State law is preempted by federal laws and regulations as it relates to drivers of commercial motor vehicles (such as bus drivers). See Minn. Stat. § 221.031, Subd. 10. Nevertheless, school districts may decide to comply with the state law requirements for various reasons (such as to treat all school district employees equally since employees subject to testing only under state law are accorded these additional rights). Consultation with the school district's legal counsel is recommended.]***

2. The school district will not discharge a driver who, for the first time, receives a confirmed positive drug or alcohol test UNLESS:
  - a. The school district has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with the SAP; and
  - b. The employee refuses to participate in the recommended program, or fails to successfully complete the program as evidenced by withdrawal before its completion or by a positive test result on a confirmatory test after completion of the program.
  - c. This limitation on employee discharge does not bar discharge of an employee for reasons independent of the first confirmed positive test result.

K. Testing Laboratory

The testing laboratory for controlled substances will be Medtox Laboratories, Inc., 402 West County Road D, St. Paul, MN 55112 (651/636-7466), which is a laboratory certified by the Department of Health and Human Services – SAMHSA to perform controlled substances testing pursuant to federal regulations.

L. Confidentiality of Test Results

All alcohol and controlled substances test results and required records of the drug and alcohol testing program are considered confidential information under federal

law and private data on individuals as that phrase is defined in Minn. Stat. Ch. 13. Any information concerning the individual's test results and records shall not be released without written permission of the individual, except as provided for by regulation or law.

M. Recordkeeping Requirements and Retention of Records

1. The school district shall keep and maintain records in accordance with the federal regulations in a secure location with controlled access.

***[Note: The federal recordkeeping requirements for school districts are detailed in the federal regulations 49 C.F.R. §§ 382.401 et seq. and 40.331. The DOT publishes a guide to the recordkeeping requirements of mandatory drug and alcohol testing for persons with a commercial driver's license as part of its Alcohol & Drugs: DOT Compliance Manual.]***

2. The required records shall be retained for the following minimum periods:

Basic records	5 years
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"Basic records" includes records of: (a) alcohol test results with concentration of 0.02 or greater; (b) verified positive drug test results; (c) refusals to submit to required tests (including substituted or adulterated drug test results); (d) SAP reports; (e) all follow-up tests and schedules for follow-up tests; (f) calibration documentation; (g) administration of the testing programs; and (h) each annual calendar year summary.

Information obtained from previous employers	3 years
Collection records	2 years
Negative and cancelled drug tests	1 year
Alcohol tests with less than 0.02 concentration	1 year
Education and training records	indefinite

"Education and training records" must be maintained while the individuals perform the functions which require training and for the two (2) years after ceasing to perform those functions.

N. Training

The school district shall ensure all persons designated to supervise drivers receive training. The designated employees shall receive at least sixty (60) minutes of training on alcohol misuse and at least sixty (60) minutes of training on controlled substances use. The training shall include physical, behavioral, speech, and performance indicators of probable misuse of alcohol and use of controlled substances. The training will be used by the supervisors to make determinations of reasonable suspicion.

O. Consequences of Prohibited Conduct and Enforcement

1. Removal. The school district shall remove a driver who has engaged in prohibited conduct from safety-sensitive functions. A driver shall not be permitted to return to safety-sensitive functions until and unless the return-to-duty requirements of federal DOT regulations have been completed.

2. Referral, Evaluation, and Treatment

- a. A driver or driver applicant who has engaged in prohibited conduct shall be provided a listing of SAPs readily available to the driver or applicant and acceptable to the school district.

***[Note: Subparagraphs b. and c., below, are based on the provisions of 49 C.F.R. § 40.289.]***

- b. If the school district offers a driver an opportunity to return to a DOT safety-sensitive duty following a violation, the driver must be evaluated by an SAP and the driver is required to successfully comply with the SAP's evaluation recommendations (education, treatment, follow-up evaluation(s), and/or ongoing services). The school district is not required to provide an SAP evaluation or any subsequent recommended education or treatment.

***[Note: School districts are not required to comply with state law governing drug and alcohol testing when the individuals are subject to the federal laws and regulations (i.e., bus drivers). If a school district, after consultation with legal counsel, chooses to comply voluntarily with these requirements, Subparagraph b., above, can be modified as follows:***

- b. The school district will offer a driver an opportunity to return to a DOT safety-sensitive duty following an employee's first positive test result on a confirmatory test if no reasons independent of the first test result for discharge exist. Otherwise, the school district may choose, but is not required, to provide an SAP evaluation or any subsequent recommended education or treatment.]***
  - c. Drivers are responsible for payment for SAP evaluations and services unless a collective bargaining agreement or employee benefit plan provides otherwise.
  - d. Drivers who engage in prohibited conduct also are required to comply with follow-up testing requirements.

3. Disciplinary Action

- a. Any driver who refuses to submit to post-accident, random, reasonable suspicion, or follow-up testing not only shall not perform or continue to perform safety-sensitive functions, but also may be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.
- b. Drivers who test positive with verification of a confirmatory test or are otherwise found to be in violation of this policy or the federal regulations shall be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.
- c. Nothing in this policy limits or restricts the right of the school district to discipline or discharge a driver for conduct which not only constitutes prohibited conduct under this policy but also violates the school district's other rules or policies.

P. Other Testing

The school district may request or require that drivers submit to drug and alcohol testing other than that required by federal law. For example, drivers may be requested or required to undergo drug and alcohol testing on an annual basis as part of a routine physical examination. Such additional testing of drivers will be conducted only in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957. For purposes of such additional, non-mandatory testing, drivers fall within the definition of "other employees" covered by Section IV. of this policy.

*[Note: When the testing of drivers complies with federal testing requirements and procedures, school districts clearly are exempt from the state drug and alcohol testing requirements in Minn. Stat. §§ 181.950-181.957. See Minn. Stat. § 221.031, Subd. 10. When testing beyond the federally mandated requirements, however, school districts still must comply with state law.]*

**~~IV. DRUG AND ALCOHOL TESTING FOR OTHER EMPLOYEES~~**

~~The school district may request or require drug and alcohol testing for other school district personnel, i.e., employees who are not school bus drivers, or job applicants for such positions. The school district does not have a legal duty to request or require any employee or job applicant to undergo drug and alcohol testing as authorized in this policy, except for school bus drivers and other drivers of CMVs who are subject to federally mandated testing. (See Section III. of this policy.) If a school bus driver is requested or required to submit to drug or alcohol testing beyond that mandated by federal law, the provisions of Section IV. of this policy will be applicable to such testing.~~

~~A. Circumstances Under Which Drug or Alcohol Testing May Be Requested or Required:~~



1. General Limitations

- a. ~~The school district will not request or require an employee or job applicant whose position does not require a commercial driver's license to undergo drug or alcohol testing, unless the testing is done pursuant to this drug and alcohol testing policy; and is conducted by a testing laboratory which participates in one of the programs listed in Minn. Stat. § 181.953, Subd. 1.~~
- b. ~~The school district will not request or require an employee or job applicant whose position does not require a commercial driver's license to undergo drug and alcohol testing on an arbitrary and capricious basis.~~

2. Job Applicant Testing

~~The school district may request or require any job applicant whose position does not require a commercial driver's license to undergo drug and alcohol testing, provided a job offer has been made to the applicant and the same test is requested or required of all job applicants conditionally offered employment for that position. If a job applicant has received a job offer which is contingent on the applicant's passing drug and alcohol testing, the school district may not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test. In the event the job offer is subsequently withdrawn, the school district shall notify the job applicant of the reason for its action.~~

3. Random Testing

~~The school district may request or require employees to undergo drug and alcohol testing on a random selection basis only if they are employed in safety-sensitive positions.~~

4. Reasonable Suspicion Testing

~~The school district may request or require any employee to undergo drug and alcohol testing if the school district has a reasonable suspicion that the employee:~~

- a. ~~is under the influence of drugs or alcohol;~~
- b. ~~has violated the school district's written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on the school district's premises or operating the school district's vehicles, machinery, or equipment;~~

e. ~~has sustained a personal injury, as that term is defined in Minn. Stat. § 176.011, Subd. 16, or has caused another employee to sustain a personal injury; or~~

d. ~~has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.~~

5. ~~Treatment Program Testing~~

~~The school district may request or require any employee to undergo drug and alcohol testing if the employee has been referred by the school district for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an employee benefit plan, in which case the employee may be requested or required to undergo drug and alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two (2) years following completion of any prescribed chemical dependency treatment program.~~

6. ~~Routine Physical Examination Testing~~

~~The school district may request or require any employee to undergo drug and alcohol testing as part of a routine physical examination provided the drug or alcohol test is requested or required no more than once annually and the employee has been given at least two weeks' written notice that a drug or alcohol test may be requested or required as part of the physical examination.~~

B. ~~No Legal Duty to Test~~

~~The school district does not have a legal duty to request or require any employee or job applicant whose position does not require a commercial driver's license to undergo drug and alcohol testing.~~

C. ~~Definitions~~

1. ~~"Drug" means a controlled substance as defined in Minnesota Statutes.~~

2. ~~"Drug and alcohol testing," "drug or alcohol testing," and "drug or alcohol test" mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, Subd. 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.~~

3. ~~"Other Employees" means any persons, independent contractors, or persons working for an independent contractor who perform services for the school district for compensation, either full time or part time, in whatever form, except for persons whose positions require a commercial~~



~~driver's license, and includes both professional and nonprofessional personnel. Persons whose positions require a commercial driver's license are primarily governed by the provisions of the school district's drug and alcohol testing policy relating to school bus drivers (Section III.). To the extent that the drug and alcohol testing of persons whose positions require a commercial driver's license is not mandated by federal law and regulations, such testing shall be governed by Section IV. of this policy and the drivers shall fall within this definition of "other employees."~~

- ~~4. "Job applicant" means a person, independent contractor, or person working for an independent contractor who applies to become an employee of the school district in a position that does not require a commercial driver's license, and includes a person who has received a job offer made contingent on the person's passing drug or alcohol testing. Job applicants for positions requiring a commercial driver's license are governed by the provisions of the school district's drug and alcohol testing policy relating to school bus drivers (Section III.).~~
- ~~5. "Positive test result" means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels contained in the standards of one of the programs listed in Minn. Stat. § 181.953, Subd. 1.~~
- ~~6. "Random selection basis" means a mechanism for selection of employees that:
  - ~~a. results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected; and~~
  - ~~b. does not give the school district discretion to waive the selection of any employee selected under the mechanism.~~~~
- ~~7. "Reasonable suspicion" means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.~~
- ~~8. "Safety sensitive position" means a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.~~

~~D. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing and Consequences of Such Refusal~~

~~1. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing~~

~~Any employee or job applicant whose position does not require a commercial driver's license has the right to refuse drug and alcohol testing subject to the provisions contained in Paragraphs 2. and 3. of this~~

~~Section D.~~

~~2. Consequences of an Employee's Refusal to Undergo Drug and Alcohol Testing~~

~~Any employee in a position that does not require a commercial driver's license who refuses to undergo drug and alcohol testing in the circumstances set out in the Random Testing, Reasonable Suspicion Testing, and Treatment Program Testing provisions of this policy may be subject to disciplinary action, up to and including immediate discharge.~~

~~3. Consequences of a Job Applicant's Refusal to Undergo Drug and Alcohol Testing~~

~~Any job applicant for a position which does not require a commercial driver's license who refuses to undergo drug and alcohol testing pursuant to the Job Applicant Testing provision of this policy shall not be employed.~~

~~E. Reliability and Fairness Safeguards~~

~~1. Pretest Notice~~

~~Before requesting an employee or job applicant whose position does not require a commercial driver's license to undergo drug or alcohol testing, the school district shall provide the employee or job applicant with a Pretest Notice in the form of Attachment D to this policy on which to acknowledge that the employee or job applicant has received the school district's drug and alcohol testing policy.~~

~~2. Notice of Test Results~~

~~Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing an employee or job applicant who has undergone drug or alcohol testing of a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test.~~

~~3. Notice of and Right to Test Result Report~~

~~Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing, an employee or job applicant who has undergone drug or alcohol testing of the employee or job applicant's right to request and receive from the school district a copy of the test result report on any drug or alcohol test.~~

~~4. Notice of and Right to Explain Positive Test Result~~

- a. ~~If an employee or job applicant has a positive test result on a confirmatory test, the school district shall provide him or her with notice of the test results and, at the same time, written notice of the right to explain the results and to submit additional information.~~
- b. ~~The school district may request that the employee or job applicant indicate any over the counter or prescription medication that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.~~
- c. ~~Within three (3) working days after notice of a positive test result on a confirmatory test, an employee or job applicant may submit information (in addition to any information already submitted) to the school district to explain that result.~~

5. ~~Notice of and Right to Request Confirmatory Retests~~

- a. ~~If an employee or job applicant has a positive test result on a confirmatory test, the school district shall provide him or her with notice of the test results and, at the same time, written notice of the right to request a confirmatory retest of the original sample at his or her expense.~~
  - b. ~~An employee or job applicant may request a confirmatory retest of the original sample at his or her own expense after notice of a positive test result on a confirmatory test. Within five (5) working days after notice of the confirmatory test result, the employee or job applicant shall notify the school district in writing of his or her intention to obtain a confirmatory retest. Within three (3) working days after receipt of the notice, the school district shall notify the original testing laboratory that the employee or job applicant has requested the laboratory to conduct the confirmatory retest or to transfer the sample to another laboratory licensed under Minn. Stat. § 181.953, Subd. 1 to conduct the confirmatory retest. The original testing laboratory shall ensure that appropriate chain-of-custody procedures are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee or job applicant.~~
6. ~~If an employee or job applicant has a positive test result on a confirmatory test, the school district, at the time of providing notice of the test results, shall also provide written notice to inform him or her of other rights provided under Sections F. or G., below, whichever is applicable.~~

Attachments E and F to this policy provide the Notices described in Paragraphs 2. through 6. of this Section E.

~~F. Discharge and Discipline of Employees Whose Positions Do Not Require a Commercial Driver's License~~

- ~~1. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.~~
- ~~2. In the case of a positive test result on a confirmatory test, the employee shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge, pursuant to the provisions of this policy.~~
- ~~3. The school district may not discharge an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested by the school district, unless the following conditions have been met:~~
  - ~~a. The school district has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with a certified chemical abuse counselor or a physician trained in the diagnosis and treatment of chemical dependency; and~~
  - ~~b. The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a positive test result on a confirmatory test after completion of the program.~~
- ~~4. Notwithstanding Paragraph 1., the school district may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the school district believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.~~
- ~~5. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of medical history information revealed to the school district, unless the employee~~



~~was under an affirmative duty to provide the information before, upon or after hire.~~

- ~~6. An employee must be given access to information in his or her personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and actions taken based on the reports or other acquired information.~~

~~G. Withdrawal of Job Offer for an Applicant for a Position That Does Not Require a Commercial Driver's License~~

~~If a job applicant has received a job offer made contingent on the applicant's passing drug and alcohol testing, the school district may not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test. In the case of a positive test result on a confirmatory test, the school district may withdraw the job offer.~~

~~H. Chain of Custody Procedures~~

~~The school district has established its own reliable chain of custody procedures to ensure proper record keeping, handling, labeling, and identification of the samples to be tested. The procedures require the following:~~

- ~~1. Possession of a sample must be traceable to the employee from whom the sample is collected, from the time the sample is collected through the time the sample is delivered to the laboratory;~~
- ~~2. The sample must always be in the possession of, must always be in view of, or must be placed in a secure area by a person authorized to handle the sample;~~
- ~~3. A sample must be accompanied by a written chain of custody record; and~~
- ~~4. Individuals relinquishing or accepting possession of the sample must record the time the possession of the sample was transferred and must sign and date the chain of custody record at the time of transfer.~~

~~I. Privacy, Confidentiality and Privilege Safeguards~~

~~1. Privacy Limitations~~

~~A laboratory may only disclose to the school district test result data regarding the presence or absence of drugs, alcohol or their metabolites in a sample tested.~~

~~2. Confidentiality Limitations~~

~~With respect to employees and job applicants, test result reports and other~~

information acquired in the drug or alcohol testing process are private data on individuals as that phrase is defined in Minn. Stat. Ch. 13, and may not be disclosed by the school district or laboratory to another employer or to a third party individual, governmental agency, or private organization without the written consent of the employee or job applicant tested.

3. Exceptions to Privacy and Confidentiality Disclosure Limitations

Notwithstanding Paragraphs 1. and 2., evidence of a positive test result on a confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under Minn. Stat. Ch. 43A or other applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding; (2) disclosed to any federal agency or other unit of the United States government as required under federal law, regulation or order, or in accordance with compliance requirements of a federal government contract; and (3) disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.

4. Privilege

Positive test results from the school district drug or alcohol testing program may not be used as evidence in a criminal action against the employee or job applicant tested.

J. Notice of Testing Policy to Affected Employees

The school district shall provide written notice of this drug and alcohol testing policy to all affected employees upon adoption of the policy, to a previously non-affected employee upon transfer to an affected position under the policy, and to a job applicant upon hire and before any testing of the applicant if the job offer is made contingent on the applicant's passing drug and alcohol testing. Affected employees and applicants will acknowledge receipt of this written notice in the form of Attachment G to this policy.

V. POSTING

The school district shall post notice in an appropriate and conspicuous location on its premises that it has adopted a drug and alcohol testing policy and that copies of the policy are available for inspection during regular business hours by its employees or job applicants in its personnel office or other suitable locations.

**Legal References:** Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
Minn. Stat. Ch. 43A (State Personnel Management)  
Minn. Stat. §§ 181.950-181.957 (Drug and Alcohol Testing in the Workplace)  
Minn. Stat. § 221.031 (Motor Carrier Rules)



49 U.S.C. § 31306 (Omnibus Transportation Employee Testing Act of 1991)

49 U.S.C. § 521(b) (Civil and Criminal Penalties for Violations)

49 C.F.R. Parts 40 and 382 (Department of Transportation Rules Implementing Omnibus Transportation Employee Testing Act of 1991)

***Cross-References:*** MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)  
Policy 406 (Public and Private Personnel Data)  
MSBA/MASA Model Policy 417 (Chemical Use and Abuse)  
Policy 422 (Employee Alcohol and Other Drug Use Policy)  
Policy 435 (Drug-Free Workplace/Drug-Free School)

## **TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY 430**

### **Acknowledgment of Transportation Employee Drug and Alcohol Policy and Procedures**

I have received a copy of the Independent School District No. 831 Transportation Employee Drug and Alcohol Policy and have been provided information on the following:

1. The person designated by the School District to answer questions about these materials;
2. Who is subject to alcohol misuse and controlled substance requirements;
3. Explanation of a safety-sensitive function;
4. What driver conduct is prohibited;
5. Circumstances for drug and/or alcohol testing;
6. Procedures used to test for the presence of drugs and/or alcohol;
7. The requirement that employees submit to controlled substance and alcohol testing;
8. An explanation of what constitutes a refusal to submit to testing;
9. The consequences for drivers violating the prohibitions of this rule, including the immediate removal of the driver from safety-sensitive functions;
10. The consequences for drivers found to have an alcohol concentration level of 0.02 or greater, but less than 0.04; and
11. Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life. Signs and symptoms on an alcohol or controlled substances problem and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Please print name: \_\_\_\_\_

# OUR CURRENT POLICY

## **TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY**

430

The abuse of drugs and alcohol is a nation-wide problem which affects persons of every age, race and gender. Independent School District No. 831 recognizes that safety problems are created when employees use or abuse illegal drugs and/or alcohol. The School District wishes to provide a safe, drug and alcohol-free workplace and learning environment for its employees and students. The School District has established the following policy on drugs and alcohol to further this goal and to comply with the drug and alcohol testing provisions mandated by the Omnibus Transportation Employee Testing Act of 1991.

### **Policy Statement**

All employees are strictly prohibited from using, possessing, selling, transferring, or being under the influence of drugs or alcohol while working or performing job duties or while on School District's premises or while operating School District's vehicles, machinery or equipment. No employee shall perform safety sensitive functions within four hours after using alcohol. Any employee found to be in violation of this policy is subject to discipline up to and including termination of employment.

### **Coverage**

The Omnibus Transportation Employee Testing Act requires that all employees whose job duties include operating a commercial motor vehicle and who are required to hold a commercial driver's license shall be subject to drug and alcohol testing. "Commercial Motor Vehicle" (CMV) means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle meets any one of the following criteria:

- A. Has a gross combination rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- B. Has a gross vehicle weight rating of 26,001 or more pounds; or
- C. Designed to transport 16 or more passengers including the driver; or
- D. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded.

All applicants, including persons currently employed by the School District, that apply for a position where job duties include operating commercial motor vehicles will be required to take a drug and alcohol test if a job offer is made.

**TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY** - Cont'd**Definitions**

1. Accident means an occurrence involving a CMV operating on a public road which results in:
  - a. A fatality; or
  - b. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - c. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.
2. Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.
3. Breath Alcohol Technician (BAT) means an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).
4. Confirmation (or confirmatory) test means: a) In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.) b) In alcohol testing, a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.
5. Controlled substance has the meaning assigned by 21 U.S.C. 802 and includes all substances listed on Schedules 1-5 as they may be revised from time to time (21 C.F.R. Part 1308).
6. DHHS. The Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.
7. Drug means any substance (other than alcohol) that is a controlled substance as defined in this section and 49 C.F.R. Part 40.
8. Evidential Breath Testing device (EBT) means an EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath.
9. FHWA. The Federal Highway Administration.

**TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY** - Cont'd

10. Medical Review Officer (MRO) means a licensed physician responsible for receiving laboratory results generated by School District's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.
11. Random selection means a mechanism for selection of employees for testing where each employee has an equal chance of being tested each time selections are made.
12. Reasonable suspicion means that the School District believes the appearance, behavior, speech or body odors of an employee are indicative of the use of a controlled substance or alcohol based on the observation of at least one (1) supervisor or official who has received training in the identification of behaviors indicative of drug and alcohol use.
13. Refuse to submit (to an alcohol or controlled substance test) means that an employee:
  - a. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing;
  - b. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing; or
  - c. Engages in conduct that clearly obstructs the testing process.
14. Safety sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work and includes the following:
  - (1) All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;
  - (2) All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations, or otherwise inspecting servicing, or condition of CMV at any time;
  - (3) All time spent at the driving controls of a CMV;
  - (4) All time, other than driving time, in or upon any CMV except time spent resting in a sleeper berth;



## **TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY - Cont'd**

- (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
  - (6) All time spent performing the driver requirements on the Federal Motor Carrier Safety Regulations relating to accidents;
  - (7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;
15. Substance Abuse Professional (SAP) means a licensed physician or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of the clinical experience in the diagnosis and treatment of alcohol and controlled substances - related disorders.

### **Prohibited Drug and Alcohol Related Conduct**

The following alcohol and controlled substance-related activities are prohibited by the FHWA's drug and alcohol rules for drivers of CMVs:

- 1. Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater;
- 2. Being on duty or operating a CMV while the employee possesses alcohol, unless the alcohol is manifested and transported as a part of a shipment. This includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken;
- 3. Using alcohol while performing safety-sensitive functions;
- 4. Performing safety-sensitive functions within four hours after using alcohol;
- 5. When required to take a post-accident test, using alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.
- 6. Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion, or follow-up testing requirements;
- 7. Reporting for duty or remaining on duty, requiring the performance of safety-sensitive functions, when the driver uses any controlled substance, except when instructed by a physician who has advised the driver that the substance

## **TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY - Cont'd**

does not adversely affect the driver's ability to safely operate a CMV;

8. Reporting for duty, remaining on duty or performing a safety-sensitive function, if the driver tests positive for controlled substances.

Employees who, under a physician's care and prescription, use a controlled substance shall carry the controlled substance in its original container with the attached prescriber's and pharmacist's identification. Employees using a prescription drug which may impair the employee's mental or motor functioning shall inform their supervisor of such drug use. The School District reserves the right to have its MRO determine if a prescription drug produces hazardous effect and to take the appropriate action based upon the report of an employee of the MRO that regarding the effects of the prescription medication or controlled substance.

### **Circumstances Under Which Drug and Alcohol Tests Shall Be Required or Requested**

**DURING THE APPLICATION PROCESS.** All job applicants, including persons currently employed by the School District, applying for a job where duties include operating the School District CMV's are required to undergo testing for alcohol and drugs if a job offer is made. The job offer is contingent upon a negative drug and alcohol test report and the applicant's written agreement authorizing former School Districts to release to the School District all information of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two year.

**REASONABLE SUSPICION.** A drug test shall be required if the School District has a reasonable suspicion that an employee has violated the provisions of this policy regarding alcohol or controlled substances. Reasonable suspicion alcohol tests should be administered as soon as practicable. If the test is not administered within 2 hours, the reason shall be documented. If the alcohol test is not administered within 8 hours all attempts to conduct the test shall cease and the reasons shall be documented. Notwithstanding the absence of a reasonable suspicion alcohol test, the employee shall not be permitted to perform or continue to perform safety sensitive functions until twenty-four hours have elapsed following the determination of reasonable suspicion.

**POST-ACCIDENT.** A post accident alcohol and drug test is required if an employee operating a CMV is involved in an accident, as defined in this policy, that results in:

1. The death of a person or persons regardless of the amount of vehicle or property damage; or
2. The employee receives a citation for a moving traffic violation arising from the accident.

**TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY - Cont'd**

The employee must provide an alcohol test sample as soon as practicable after the occurrence of the accident. If the employee does not receive the test within 2 hours of the accident, the reasons shall be documented. After 8 hours, all attempts to conduct the alcohol test shall cease and the reasons shall be documented. The employee also must provide a urine sample for controlled substances testing as soon as practicable after the accident. After 32 hours, all attempts to conduct this test shall cease and the reasons shall be documented. An employee subject to post-accident testing must remain available for testing or the employee shall be considered to have refused to submit to testing. The employee is prohibited from using alcohol for 8 hours following the accident or until the employee has undergone a post-accident alcohol test, whichever comes first.

**RETURN-TO-DUTY TESTING.** An employee found to have violated this policy shall not return to work until after undergoing return-to-duty tests indicating an alcohol concentration of less than 0.02 and a verified negative result for controlled substances.

**FOLLOW-UP TESTING.** Following a determination by a substance abuse professional (SAP), that an employee is in need of assistance in resolving problems with alcohol abuse and/or controlled substances use, an employee shall be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by the SAP. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty.

**RANDOM TESTING.** The School District will randomly select employees subject to this policy for unannounced alcohol and controlled substances testing using a computer-based random number generator that is matched with an employee's identifying number. Alcohol testing shall be performed just before, during or after an employee's performance of safety-sensitive duties. Employees selected for testing must proceed immediately to the testing site; provided, however, that if an employee is performing a safety-sensitive function at the time of notification, the employee shall cease performing the safety-sensitive function and proceed to the testing site as soon as possible. FHWA rules require the School District to conduct random controlled substances testing on 50% of the average number of employees and random alcohol testing on 25% of the average number of employees during the first year of the program. Employees may be selected for more than one test per year. Tests shall be spread reasonably throughout the year.

In addition to employee selection by the computer-based random number generator, the School District will use the same system to generate an alternate list of employees for random testing. The alternate list will be referred to only for replacement of drivers not in attendance from the regular random selection list.

**Testing Procedures**

**TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY - Cont'd****1. Alcohol**

The FHWA alcohol test rules require breath testing to be administered by a BAT using an EBT. Two breath tests are required to determine if a person has a prohibited alcohol concentration. Any result less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a second confirmation test must be conducted. If an employee attempts and fails to provide an adequate amount of breath, the School District will direct the employee to obtain written evaluation from a licensed physician to determine if the employee's inability to provide a specimen is genuine or constitutes a refusal to test. Alcohol test results are reported directly to the designated School District contact person.

**2. Drugs**

Controlled substances testing is conducted by analyzing an employee's urine specimen. Split urine samples will be collected according to FHWA regulations. The employee will provide a urine sample at a designated collection site. The collection site person shall pour the urine specimen into two bottles labeled "primary" and "split", seal the specimens, complete a chain of custody document and prepare the bottles for shipment to the testing laboratory for analysis.

If the employee is unable to provide the appropriate quantity of urine, the collection site person shall instruct the employee to drink not more than 24 ounces of fluids and, after a period of no more than two hours, again attempt to provide a complete sample. If the employee is still unable to provide a complete sample, the testing shall be discontinued and the School District notified. The MRO shall refer the employee for a medical evaluation to determine if the employee's inability to provide a specimen is genuine or constitutes a refusal to test. For pre-employment testing, the School District may elect to not have the referral made and revoke the employment offer.

Urine specimens are transported for testing to a laboratory which is certified to perform controlled substance testing according to DHHS regulations.

Drug test results are reported directly to the Medical Review Officer (MRO) by the testing laboratory. The MRO reports the results to the School District's designated contact person. If the results are negative, the School District is informed and no further action is necessary. If the test result is confirmed positive, the MRO shall give the employee an opportunity to discuss the test result. The MRO must review any medical records supplied by an employee to determine if a confirmed positive test is the result of the employee having taken legally prescribed medication. The MRO shall notify each employee that the employee has 72 hours in which to request a test of the split specimen at the employee's expense. The MRO will contact the employee directly, on a confidential basis, to determine whether the person wishes to discuss the positive test results.



**TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY - Cont'd**

The MRO will review the confirmed positive test result to determine whether there is an acceptable medical reason for the positive result. The MRO shall verify and report a positive test result to the School District when there is no legitimate medical reason for a positive test result as received from the testing laboratory.

If after making reasonable efforts and documenting these efforts, the MRO is unable to reach the employee directly, the MRO must contact the designated School District contact person, who shall direct the employee to contact the MRO. If the School District contact person is unable to contact the employee, the employee will be placed on suspension.

The MRO may verify a test positive without having communicated directly with the employee about the test results under the following circumstances:

1. The employee expressly declines the opportunity to discuss the test results.
2. The employee has not contacted the MRO within five days of being instructed to do so by the School District.

**Employee/Applicant Rules**

All applicants and employees subject to the drug testing provisions of this policy have the right to request, at employee or applicant expense, a retest of the split urine sample within 72 hours of receiving notice of a confirmed positive test result.

If the employee requests an analysis of the split specimen within seventy-two (72) hours of having been informed of a verified positive test, the MRO shall direct, in writing, the laboratory to provide the split specimen to another DHSS-certified laboratory for analysis. If an employee has not contacted the MRO within seventy-two (72) hours, the employee may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the employee from timely making contact. If the MRO concludes that there is a legitimate explanation for the employee's failure to contact within seventy-two (72) hours, the MRO shall direct the analysis of the split specimen.

If the confirming retest is negative, no adverse action will be taken against the employee and an applicant will be considered for employment.

**Confidentiality of Test Results**

All alcohol/controlled substances test results and required records are considered confidential information. Any information concerning an individual's test results and records shall not be released without the written permission of the individual except as

**TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY - Cont'd**

provided for by regulation or law.

**Consequences of Employees Engaging in Prohibited Conduct**

Employees who have engaged in prohibited conduct are subject to the following consequences pursuant to FHWA rules and regulations:

1. Employees shall not be permitted to perform safety-sensitive functions;
2. Employees shall be advised by the School District of the resources available to them in evaluating and resolving problems associated with misuse of alcohol or use of controlled substances;
3. Employees shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use;
4. Before an employee returns to duty requiring performance of a safety-sensitive function, he/she shall undergo a return-to-duty test with a result indicating a breath alcohol level of less than 0.02 if the conduct involved alcohol, or a controlled substance test with a verified negative result if the conduct involved controlled substance use;
5. In addition, each employee identified as needing assistance in resolving problems associated with alcohol or controlled substances shall be evaluated by a substance abuse professional to determine that the employee has followed the rehabilitation program prescribed;
6. The employee shall also be subject to unannounced follow-up alcohol and controlled substance testing.

**Consequences For Other Alcohol Related Conduct**

FHWA rules require that in the event of an alcohol test result over 0.02 but less than 0.04, an employee shall not be permitted to perform safety-sensitive functions for not less than 24 hours.

**Refusal to Undergo Testing and Consequences of Refusal**

All applicants and employees have the right to refuse to undergo drug and alcohol testing. If an individual refuses to undergo drug and alcohol testing required by this policy, no such test shall be given.

**TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY** - Cont'd

An applicant who refuses to take a drug and alcohol test shall be disqualified from further consideration for the conditionally offered position.

An employee refusing to take a drug and alcohol test required by this policy shall not be permitted to perform safety sensitive functions and will be considered insubordinate and will be subject to disciplinary action including possible dismissal.

**Discipline**

Any person found to be in violation of this policy is subject to discipline up to and including discharge. Disciplinary actions taken pursuant to this policy are appealable pursuant to the procedures established in the School District's personnel policy and rules or any applicable collective bargaining agreement, but not both.

The School District will not discharge an employee that, for the first time, receives a verified positive drug or alcohol test result unless:

1. the employee refuses to meet with a substance abuse professional for the purpose of an evaluation for alcohol/controlled substance use/abuse and recommendations for an educational, counseling or treatment program; or
2. the employee fails to enter the recommended program, or fails to successfully complete the program; or
3. the employee fails a return to duty alcohol and controlled substance test at the successful completion of the recommended program or subsequent unannounced follow-up alcohol and controlled substance testing.

Nothing in this policy limits or restricts the right of the School District to discipline or discharge an employee for conduct which violates the School District's policies or rules provided the employee is not tested for controlled substances or alcohol.

**Alcohol and Controlled Substances Contact Person**

The Supervisor of Transportation (position) is the designated contact person for this policy. The designated contact person will coordinate the implementation, direction, and administration of the School District's alcohol and controlled substances policy. The contact person is the principal contact for the collection site, the testing lab, the MRO, the BAT and the person tested. Employee questions concerning this policy should be directed to the contact person. The Supervisor of Transportation (position) can be reached at 207 NW Sixth Avenue, Forest Lake, MN 55025 (address), 464-9194 (telephone number).

**TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY** - Cont'd**Policy Modification**

The School District retains the right to modify this policy to conform to changes in regulation or law.

ADOPTED: 8/21/95



**TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY** - Cont'd**Acknowledgment of Transportation Employee Drug  
and Alcohol Policy and Procedures**

I have received a copy of the Independent School District No. 831 Transportation Employee Drug and Alcohol Policy and have been provided information on the following:

1. The person designated by the School District to answer questions about these materials;
2. Who is subject to alcohol misuse and controlled substance requirements;
3. Explanation of a safety-sensitive function;
4. What driver conduct is prohibited;
5. Circumstances for drug and/or alcohol testing;
6. Procedures used to test for the presence of drugs and/or alcohol;
7. The requirement that employees submit to controlled substance and alcohol testing;
8. An explanation of what constitutes a refusal to submit to testing;
9. The consequences for drivers violating the prohibitions of this rule, including the immediate removal of the driver from safety-sensitive functions;
10. The consequences for drivers found to have an alcohol concentration level of 0.02 or greater, but less than 0.04; and
11. Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life. Signs and symptoms of an alcohol or controlled substances problem and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please print name: \_\_\_\_\_

831/policy.1/rdp

**STUDENT TRANSPORTATION SAFETY POLICY**

**531**

**I. PURPOSE**

The purpose of this Policy is to provide safe transportation for students and to educate students on safety issues and the responsibilities of school bus ridership.

**II. PLAN FOR STUDENT TRANSPORTATION SAFETY TRAINING**

**A. School Bus Safety Week.**

The first week of school is designated as school bus safety week.

**B. Student Training.**

1. The School District shall provide students enrolled in grades kindergarten through 10 with age appropriate school bus safety training. Upon completing the training, a student shall be able to demonstrate knowledge and understanding of at least the following competencies and concepts:
  - a. transportation by school bus is a privilege not a right;
  - b. District policies for student conduct and school bus safety;
  - c. appropriate conduct while on the bus;
  - d. the danger zones surrounding a school bus;
  - e. procedures for safely boarding and leaving a school bus;
  - f. procedures for safe vehicle lane crossing; and
  - g. school bus evacuation and other emergency procedures.
2. Student school bus safety training shall commence during school bus safety week. All students grades K-3 who are transported by school bus and are enrolled during the first or second week of school must demonstrate achievement of the school bus safety training competencies by the end of the third week of school. Students grades 4-10 must demonstrate achievement of these competencies by the end of the sixth week of school. Students who enroll in a school after the second week of school and are transported by school bus, shall undergo School Bus Safety training and demonstrate achievement of the school bus safety competencies within four weeks of the first day of attendance. The School District may deny transportation to a student who fails to demonstrate the competencies, unless the student is unable to achieve the competencies due to a disability. Further, the School District may deny transportation to a student who attends a nonpublic school that fails to provide appropriate student training.
3. The School District will make reasonable accommodations in training for students known to speak English as a second language and students with disabilities.
4. The District will, to the extent possible, provide kindergarten students with school bus safety training before the first day of school.

5. The School District will also provide student safety education for bicycling and pedestrian safety.
6. The School District's curriculum for transportation is maintained and available for review in the office of the Transportation Safety Director.
7. Nonpublic students transported by the School District will receive School Bus Safety training in their nonpublic school. The nonpublic school must certify to the School District's School Transportation Safety Director that all students have received the appropriate training.

### III. PARENT AND GUARDIAN INVOLVEMENT

#### A. Parent/Guardian Responsibilities For Transportation Safety.

1. Become familiar with District rules and policies, regulations and principles of school bus safety.
2. Assist students in understanding safety rules and encourage them to abide by them.
3. Recognize their responsibilities for the actions of their children.
4. Support safe riding and walking practices and reasonable discipline efforts.
5. When appropriate, assist students in safely crossing local streets before boarding and after leaving the bus.
6. Support procedures for emergency evacuation, and procedures in emergencies as set up by the School District.
7. Respect the rights and privileges of others.
8. Communicate safety concerns to school administrators.
9. Monitor bus stops, if possible.
10. Support all efforts to improve school bus safety.
11. Have their children to the bus stop five minutes before the bus arrives.
12. Have their children properly dressed for the weather.
13. Have a plan in case the bus is late.

#### B. Parent/Guardian Notification.

A copy of the School District school bus and bus stop rules will be provided to each family at the beginning of the school year or when a child enrolls, if this occurs during the school year. Parents/guardians are asked to review the rules with their students.

### IV. CONDUCT ON SCHOOL BUSES AND CONSEQUENCES FOR MISBEHAVIOR

- A. Riding the school bus is a privilege, not a right. Students are expected to follow the same behavioral standards while riding school buses as are expected on school property or at school activities, functions or events. All school rules are in effect while a student is riding the bus or at the bus stop.
- B. Consequences for school bus/bus stop misconduct will be imposed by the Building Principal or the Principal's designee. In addition, all school bus/bus stop misconduct

will be reported to the District's Transportation Safety Director and may be reported to local law enforcement.

1. School Bus and Bus Stop Rules.

The School District school bus safety rules are to be posted on every bus. If these rules are broken, the School District's discipline procedures are to be followed. In most circumstances, consequences are progressive and may include suspension of bus privileges. It is the school bus driver's responsibility to report unacceptable behavior to the School District's Transportation Office/School Office.

2. Rules at the Bus Stop.

- a. Get to your bus stop 5 minutes before your scheduled pick up time. The school bus driver will stop, but not wait for late students.
- b. Respect the property of others while waiting at your bus stop.
- c. Keep your arms, legs and belongings to yourself.
- d. Use appropriate language.
- e. Stay away from the street, road or highway when waiting for the bus. Wait until the bus stops before approaching the bus.
- f. After getting off the bus, move away from the bus.
- g. If you must cross the street, always cross in front of the bus where the driver can see you. Wait for the driver to signal to you before crossing the street.
- h. No fighting, harassment, intimidation or horseplay.
- i. No use of alcohol, tobacco or drugs.

3. Rules on the Bus.

- a. Immediately follow the directions of the driver.
- b. Sit in your seat facing forward.
- c. Talk quietly and use appropriate language.
- d. Keep all parts of your body inside the bus.
- e. Keep your arms, legs and belongings to yourself.
- f. No fighting, harassment, intimidation or horseplay.
- g. Do not throw any object.
- h. No use of alcohol, tobacco or drugs.
- i. Do not bring any weapon or dangerous objects on the school bus.
- j. Do not damage the school bus.
- k. Do not eat or drink on the school bus on regular school bus routes to and from school. Exceptions will be made for medical reasons.

4. Consequences.

- a. Consequences for school bus/bus stop misconduct will apply to all regular and late routes. Decisions regarding a student's ability to ride the bus in connection with co-curricular and extra-curricular events (for example, field trips or competitions) will be in the sole discretion of the School District. Parents/guardians will be notified of any offenses and/or suspension of bus privileges.



- 1) Elementary (K-6) per school year.
  - 1st offense -- warning
  - 2nd offense -- warning or 1-3 school day suspension from riding the bus
  - 3rd offense -- 5 school day suspension from riding the bus
  - 4th offense -- 10 school day suspension from riding the bus / meeting with parent/guardian
  - Further offenses -- individually considered. Students may be suspended for longer periods of time, including the remainder of the school year.
- 2) Secondary (7-12) per school year.
  - 1st offense -- warning
  - 2nd offense -- 3-5 day suspension from riding the bus
  - 3rd offense -- 10 day suspension from riding the bus
  - 4th offense -- 20 day suspension from riding the bus/meeting with parent/guardian
  - 5th offense -- suspended from riding the bus for the remainder of the school year
- 3) Other Discipline.

Based on the severity of a student's conduct, more serious consequences may be imposed at any time. Depending on the nature of the offense, consequences such as suspension or expulsion from school may also result from school bus/bus stop misconduct.

On a take home route, a school bus driver shall have the authority to remove a student from the bus for one day for misbehavior considered to be causing an immediate and substantial danger to self or surrounding persons or property, provided the driver follows the administrative regulations addressing these suspensions, as outlined in the Driver's Handbook. The driver must make direct contact (telephone or meeting) with the parent/guardian prior to the end of the evening on the day preceding the removal from the bus.
- 4) Records.

Records of school bus/bus stop misconduct will be forwarded to the individual school building and will be retained in the same manner as other student discipline records. Records may also be maintained in the transportation office.
- 5) Vandalism/Bus Damage.

Students damaging school buses will be responsible for the damages. Failure to pay such damages (or make arrangements to pay) within two weeks may result in the loss of bus privileges until damages are paid.
- 6) Notice.

Students will be given a copy of school bus and bus stop rules during school bus safety training. Rules are to be posted on each bus and both rules and consequences will be periodically reviewed with students by the driver.

7) Criminal Conduct.

In cases involving criminal conduct the Superintendent, local law enforcement officials and the Department of Public Safety will be informed.

V. SCHOOL BUS DRIVER DUTIES AND RESPONSIBILITIES

All school bus drivers shall be adequately prepared, both physically and mentally, each day to perform required duties. These shall include:

A. Operating the vehicle in a safe and efficient manner.

1. Safety. The primary concern of each driver is safety. Drivers will exercise extreme caution during the loading and unloading process as well as when driving.
2. Defensive Driving. All drivers are to drive defensively at all times. A definition of defensive driving is: driving in a manner to avoid accident involvement despite adverse conditions created by roads, weather, traffic, or errors of other drivers or pedestrians.
3. Driving Adjustments. Winter and wet weather driving may require adjusting speed and normal driving practices to compensate for road conditions.
4. Emergency Doors. Emergency doors must be free and operable. Under no circumstances may the doors be obstructed to prevent easy access.
5. Service Door. The service door of the bus must be closed at all times while the bus is in motion.
6. Overloads. The registration card in all vehicles designates the maximum number of passengers allowed to be carried. This limit cannot be exceeded. A driver should call the designated individual for instructions should a vehicle become overloaded.
7. Railroad Crossings. All vehicles used to transport must stop at railroad crossings, using required procedures, whether they are loaded or empty. School buses shall not activate the eight-way lights; four-way hazard lights are to be used before stopping and when crossing the tracks.

8. Speeding and Other Moving Violations. No bus will travel faster than road, traffic and weather conditions safely permit, regardless of the posted speed limit. Any driver convicted of a moving violation with a school bus will face disciplinary action. Other reports or warnings regarding speeding will result in suspension and/or termination.
  9. Tobacco Products Prohibited. Smoking or use of tobacco products by either the driver or the passengers is prohibited on any school bus, Type III vehicle, or on school property.
- B. Conducting thorough pre-trip and post-trip inspections of the vehicle and special equipment.
1. Pre-Trip/Post-Trip Bus Inspection. Drivers are required to make a pre-trip inspection of the bus before each trip. Failure to do so is a violation of State law. Defects are to be reported in writing. Drivers are required to check their buses for students, vandalism and articles left on the bus after each route segment.
  2. Safety Equipment. All drivers are responsible for ensuring that the necessary safety equipment is aboard the bus, including fire extinguisher, first aid kit, bodily fluids clean-up kit, flashlight, reflectorized emergency warning device, and any additional items required by the District. Drivers of vehicles for disabled students will ensure all student health information cards will be maintained as a hard copy on the vehicle or available through 2-way communication in the dispatch office.
  3. Bus Cleaning. Drivers are required to keep the interior of their buses swept and free of trash at all times.
  4. Fueling. The driver is responsible for ensuring that his or her assigned vehicle is adequately fueled before leaving the yard. Smoking is prohibited in the fueling area. The engine shall be turned off while fueling. Drivers should never fuel with passengers aboard.
- C. Ensuring the safety, welfare and orderly conduct of passengers while on the bus. (See Section II).
- D. Meeting emergency situations in accordance with operating procedures. (See Sections VIII and VI).
- E. Communicating effectively with school staff, students, parents, law enforcement officials and the motoring public.
1. Relations with Students. Bus drivers will treat students with respect and will refrain from any conduct which is intended or could be perceived as demeaning, intimidating or harassing.

2. Relations with School Officials. School officials can and will be of considerable assistance to drivers. They are trained in the education of students and it is in their best interest that control and discipline be maintained on the bus. Therefore, it is very important drivers have good relationships with the school officials and give them full cooperation.
3. Relations with the Public. It is important to remember that to the general public, the driver represents the School. Buses are one of the most visible vehicles on the road. Drivers must deal with students, parents, and other motorists in a polite, professional and considerate manner.
4. Student Discipline. Although drivers are responsible for maintaining order on the bus, drivers must always remember that the types of actions they may use are limited. Drivers must never, under any circumstances, use corporal punishment. Drivers have no authority to permanently deny a child the privilege of riding the bus, or drop the student at other than the designated stop. Any denial of bus-riding privileges can come only from the school authorities, except as noted under Section IV. B.4.a.3.
5. Route Problems. Any problems, of whatever kind, encountered by a driver on the routes or trips should be brought to the attention of the Office of the Transportation Safety Director as soon as possible.
6. Unauthorized Passengers. Only authorized passengers may be transported in a bus. Any other passenger must be specifically approved by the Director of Transportation or his/her designee.
7. Notices. It is the responsibility of the driver to check for notices each day and to check with his or her supervisor regularly.

F. Completing required reports.

It is the responsibility of the driver to completely fill out and timely turn in all reports, discipline referrals, time cards, and mechanical defect slips as required. This includes all requirements pertaining to pre-trip inspections and stop-arm violation reports.

G. Completing required training programs successfully. (See Section VII).

H. Providing maximum safety for passengers during loading and unloading.

1. Standees Prohibited. Standees are not allowed on a moving school bus. Drivers must not move a bus from a stopped position until all passengers are seated. Students are to remain seated until the bus has stopped.
2. Dangerous Articles. No weapons or articles that may be classified as dangerous, may be transported on a school bus. This includes any and all weapons, gasoline

cans, animals, and other dangerous or objectionable items. Possession of weapons on school property or the bus will not be tolerated. Companion dogs are allowed.

3. Driver must wear the seat belt whenever the bus is in motion. Additional driver duties and responsibilities may be found in the driver handbook. All bus driver dismissals will be reported to the Department of Public Safety pursuant to Department of Public Safety directions.

## VI. OPERATING RULES AND PROCEDURES

### A. General Operating Rules.

1. All routes shall be on file with the School District's School Transportation Safety Director.
2. Only students assigned to the school bus by the District shall be transported. The number of students or other authorized passengers transported in or assigned to a school bus shall not be more than the legal capacity for the bus. No person shall be allowed to stand when the bus is in motion.
3. Drivers are to enforce the provisions of the school bus and bus stop rules as appropriate. Students may be released from the bus at only three points, the approved bus stop, shuttle location or at school, except in case of an emergency.
4. The parent/guardian may designate by a signed, written request a day care facility, respite care facility, the residence of a relative or the residence of a person chosen by the parent or guardian as the address of the student for transportation purposes. The address must be in the attendance area of the assigned school and meet other eligibility requirements.
5. Students who misbehave severely may be returned to the school immediately and reported to the Building Principal or other designated individual.
6. Safety evacuation drills for the student-passengers shall be conducted at least twice a year.
7. There shall be no students in the bus while the fuel tank is being filled. On leaving the vehicle when students are in the bus, the driver shall stop the bus, remove the ignition key, set the brakes and otherwise render the bus immobile.
8. Buses shall not be run backwards on the school grounds or any other point if it can be avoided. If it is necessary to run a bus backwards on school grounds, the driver shall have another responsible person act as a guard flagman in back of the bus to keep other persons out of the path and to issue warnings to the driver of approaching traffic.



9. When arriving or leaving the school grounds, the driver must not follow closer than 50 feet from the vehicle directly in front of the bus or closer than 500 feet when traveling on the highway.
10. No school bus shall pull any trailer when students are being transported on regular routes to or from school.
11. In case of an accident or breakdown of the bus, the driver shall contact the dispatcher using the two-way radio. If no radio contact is available, the driver shall not leave the bus unattended.
12. The District may adopt such additional operating rules as are deemed necessary to meet local conditions and needs, provided they do not conflict with State laws and regulations.
13. A bus driver may not operate a school bus while communicating over, or otherwise operating, a cellular phone for personal reasons, whether hand-held or hands free, when the vehicle is in motion. For purposes of this paragraph, "school bus" has the meaning given in Minn. Stat. § 169.011, Subd. 71. In addition, "school bus" also includes type III vehicles when driven by employees or agents of the school district. "Cellular phone" means a cellular, analog, wireless, or digital telephone capable of sending or receiving telephone or text messages without an access line for service.
14. Bus drivers must minimize, to the extent practical, the idling of school bus engines and exposure of children to diesel exhaust fumes.
15. To the extent practical, the school district will designate school bus loading/unloading zones at a sufficient distance from school air-intake systems to avoid diesel fumes from being drawn into the systems.

B. Use of Signals, Loading or Unloading.

1. The driver shall activate the flashing eight-light system of the bus at least 300 feet before stopping to load or unload students when outside an incorporated municipality, and 100 feet when operating within an incorporated municipality, and shall not extinguish such lights until loading or unloading is completed and persons who must cross the roadway or highway are safely across.
2. Bring the vehicle to a complete stop in the right hand lane of the roadway parallel to the center line.
3. Prior to discharging students, open door, activate red flashing lights and extend the stop arm. Discharge students only after all traffic (front and rear) has come to a complete stop.

4. Keep door open and eight-light system operating until all students have been loaded or unloaded safely.
5. The driver should avoid loading or unloading students where the view is obstructed to other motorists for 200 feet in either direction.
6. The driver will not permit students to stand or get on or off the bus while it is in motion.
7. The driver will bring the bus to a full stop and disengage gears by shifting gear shift lever into neutral position or selector into neutral or park position before loading or unloading students.
8. Buses shall load and unload students only at designated locations.

C. Crossing Highways and Streets.

1. The driver shall be responsible for safely delivering the students who must cross the highway or street by one of the following methods:
  - a. Students shall pass approximately 10 feet in front of the school bus so as to be seen by the driver and cross the road only upon receiving a hand signal from the driver, or
  - b. The student shall pass approximately 10 feet in front of the bus so as to be seen by the driver and be conducted across the road by the school bus patrol, or
  - c. The driver shall personally conduct the students across the road after following required procedures for disabling the bus.
  - d. The driver shall visually ascertain that students getting off the bus who do not need to cross the road are a safe distance from the bus before moving the vehicle.

D. Type III Vehicles.

1. Type III vehicles are restricted to passenger cars, station wagons, vans, and buses having a maximum manufacturer's rated seating capacity of 10 or fewer people including the driver and a gross vehicle weight rating of 10,000 pounds or less. A van or bus converted to a seating capacity of 10 or fewer and placed in service on or after August 1, 1999, must have been originally manufactured to comply with the passenger safety standards.
2. Type III vehicles must be painted a color other than national school bus yellow.
3. Type III vehicles shall be state inspected in accordance with legal requirements.

4. A type III vehicle cannot be older than 12 years old unless excepted by state and federal law.
5. If a type III vehicle is school district owned, the school district name will be clearly marked on the side of the vehicle. The type III vehicle must not have the words "school bus" in any location on the exterior of the vehicle or in any interior location visible to a motorist.
6. A "type III vehicle" must not be outwardly equipped and identified as a type A, B, C, or D bus.
7. Eight-lamp warning systems and stop arms must not be installed or used on type III vehicles.
8. Type III vehicles must be equipped with mirrors as required by law.
9. Any type III vehicle may not stop traffic and may not load or unload before making a complete stop and disengaging gears by shifting into park. Any type III vehicle used to transport students must not load or unload so that a student has to cross the road, except where not possible or impractical, then the driver or assistant must escort a student across the road. If the driver escorts the student across the road, then the motor must be stopped, the ignition key removed, the brakes set, and the vehicle otherwise rendered immobile.
10. Any type III vehicle used to transport students must carry emergency equipment including:
  - a. Fire extinguisher. A minimum of one 10BC rated dry chemical type fire extinguisher is required. The extinguisher must be mounted in a bracket, and must be located in the driver's compartment and be readily accessible to the driver and passengers. A pressure indicator is required and must be easily read without removing the extinguisher from its mounted position.
  - b. First aid kit and body fluids cleanup kit. A minimum of a ten-unit first aid kit and a body fluids cleanup kit is required. They must be contained in removable, moisture- and dust-proof containers mounted in an accessible place within the driver's compartment and must be marked to indicate their identity and location.
  - c. A type III vehicle must contain at least three red reflectorized triangle road warning devices. Liquid burning "pot type" flares are not allowed.

- d. Passenger cars and station wagons may carry a fire extinguisher, a first aid kit, and warning triangles in the trunk or trunk area of the vehicle if a label in the driver and front passenger area clearly indicates the location of these items.
- 11. Students will not be regularly transported in private vehicles that are not state inspected as type III vehicles. Only emergency, unscheduled transportation may be conducted in vehicles with a seating capacity of 10 or fewer without meeting the requirements for a type III vehicle. Also, parents may use a private vehicle to transport their own children under a contract with the district. The school district has no system of inspection for private vehicles.
- 12. All drivers of type III vehicles will be licensed drivers and will be familiar with the use of required emergency equipment. The school district will not knowingly allow a person to operate a type III vehicle if the person has been convicted of an offense that disqualifies the person from operating a school bus.

E. Type III Vehicle Driven by Employees with a Class A-D Driver's License

- 1. The holder of a Class A, B, C, or D driver's license, without a school bus endorsement, may operate a type III vehicle, described above, under the following conditions:
  - a. The operator is an employee of the entity that owns, leases, or contracts for the school bus, which may include the school district.
  - b. The operator's employer, which may include the school district, has adopted and implemented a policy that provides for annual training and certification of the operator in:
    - (1) safe operation of a type III vehicle;
    - (2) understanding student behavior, including issues relating to students with disabilities;
    - (3) encouraging orderly conduct of students on the bus and handling incidents of misconduct appropriately;
    - (4) knowing and understanding relevant laws, rules of the road, and local school bus safety policies;
    - (5) handling emergency situations;
    - (6) proper use of seat belts and child safety restraints;

- (7) performance of pretrip vehicle inspections;
  - (8) safe loading and unloading of students, including, but not limited to:
    - (a) utilizing a safe location for loading and unloading students at the curb, on the nontraffic side of the roadway, or at off-street loading areas, driveways, yards, and other areas to enable the student to avoid hazardous conditions;
    - (b) refraining from loading and unloading students in a vehicular traffic lane, on the shoulder, in a designated turn lane, or a lane adjacent to a designated turn lane;
    - (c) avoiding a loading or unloading location that would require a student to cross a road, or ensuring that the driver or an aide personally escort the student across the road if it is not reasonably feasible to avoid such a location; and
    - (d) placing the type III vehicle in "park" during loading and unloading; and
  - (9) compliance with paragraph V.E. concerning reporting convictions to the employer within ten days of the date of conviction.
- c. A background check or background investigation of the operator has been conducted that meets the requirements under Minn. Stat. § 122A.18, Subd. 8, or Minn. Stat. § 123B.03 for school district employees; Minn. Stat. § 144.057 or Minn. Stat. Ch. 245C for day care employees; or Minn. Stat. § 171.321, Subd. 3, for all other persons operating a type A or type III vehicle under this section.
  - d. Operators shall submit to a physical examination as required by Minn. Stat. § 171.321, Subd. 2.
  - e. The operator's employer has adopted and implemented a policy that provides for mandatory drug and alcohol testing of applicants for operator positions and current operators, in accordance with Minn. Stat. § 181.951, Subds. 2, 4, and 5.
  - f. The operator's driver's license is verified annually by the entity that owns, leases, or contracts for the school bus.
  - g. A person who sustains a conviction, as defined under Minn. Stat. §609.02, of violating Minn. Stat. § 169A.25, § 169A.26, § 169A.27 (driving while



impaired offenses), or § 169A.31 (alcohol-related school bus driver offenses), or whose driver's license is revoked under Minn. Stat. §§ 169A.50 to 169A.53 of the implied consent law, or who is convicted of or has his or her driver's license revoked under a similar statute or ordinance of another state, is precluded from operating a type III vehicle for five years from the date of conviction.

- h. A person who has ever been convicted of a disqualifying offense as defined in Minn. Stat. § 171.3215, Subd.1(c), (*i.e.*, felony, controlled substance, criminal sexual conduct offenses, or offenses for surreptitious observation, indecent exposure, use of minor in a sexual performance, or possession of child pornography or display of pornography to a minor) may not operate a type III vehicle.
  - i. A person who sustains a conviction, as defined under Minn. Stat. § 609.02, of a moving offense in violation of Minn. Stat. Ch. 169 within three years of the first of three other moving offenses is precluded from operating a type III vehicle for one year from the date of the last conviction.
  - j. Students riding the type III vehicle must have training required under Minn. Stat. § 123B.90, Subd. 2 (See Section II.B., above).
  - k. Documentation of meeting the requirements listed in this section must be maintained under separate file at the business location for each type III vehicle operator. The school district or any other entity that owns, leases, or contracts for the type III vehicle operating under this section is responsible for maintaining these files for inspection.
  - 1. A person who operates a type III vehicle and who sustains a conviction as described in Section VI.E.1.g. (*i.e.*, driving while impaired offenses, VI.E.1.h. (*i.e.*, felony, controlled substance, criminal sexual conduct offenses, or offenses for surreptitious observation, indecent exposure, use of minor in a sexual performance, or possession of child pornography or display of pornography to a minor), or VI.E.1.i. (multiple moving violations) while employed by the entity that owns, leases, or contracts for the school bus, shall report the conviction to the person's employer within ten days of the date of the conviction. The notification shall be in writing and shall contain all the information set forth in Attachment C accompanying this policy. This provision does not apply to a school district employee whose normal duties do not include operating a type III vehicle.
2. The type III vehicle must bear a current certificate of inspection issued under Minn. Stat. § 169.451.

3. An operator employed by the school district, whose normal duties do not include operating a type III vehicle, who holds a Class D driver's license without a school bus endorsement, may operate a type III vehicle and is exempt from paragraphs VII.C.1.c. (background checks), VII.C.1.d. (physical examination), VII.C.1.e. (drug and alcohol testing), and VII.C.1. f. (annual license verification), above.

F. Type A-I "Activity" Buses Driven by Employees with Class D Driver's License

1. The holder of a Class D driver's license, without a school bus endorsement, may operate a type A-I school bus or a Multifunctional School Activity Bus (MFSAB) under the following conditions:
  - a. The operator is an employee of the school district or an independent contractor with whom the school district contracts for the school bus and is not solely hired to provide transportation services under this paragraph.
  - b. The operator drives the school bus only from points of origin to points of destination, not including home-to-school trips to pick up or drop off students.
  - c. The operator is prohibited from using the eight-light system if the vehicle is so equipped.
  - d. The operator has submitted to a background check and physical examination as required by Minn. Stat. § 171.321, Subd. 2.
  - e. The operator has a valid driver's license and has not sustained a conviction of a disqualifying offense as set forth in Minn. Stat. § 171.02, Subd. 2a(h) - 2a(j).
  - f. The operator has been trained in the proper use of child safety restraints as set forth in the National Highway Traffic Safety Administration's "Guideline for the Safe Transportation of Pre-school Age Children in School Buses," if child safety restraints are used by passengers, in addition to the training required in Section VI., above.
  - g. The bus has a gross vehicle weight of 10,000 pounds or less and is designed to transport 15 or fewer passengers, including the driver.
2. The school district shall maintain annual certification of the requirements listed in this section for each Class D license operator.

3. A school bus operated under this section must bear a current certificate of inspection.
4. The word "School" on the front and rear of the bus must be covered by a sign that reads "Activities" when the bus is being operated under authority of this section.

## VII. SCHOOL BUS DRIVER TRAINING

### A. Training.

All new bus drivers shall be provided with pre-service training, including in-vehicle (actual driving) instruction before transporting students and shall meet the competencies specified by the Department of Public Safety. All school bus drivers shall receive in-service training annually. The following driver training standards represent the minimum areas of training which each driver must receive prior to entering service to the School District. The School District shall forward to the Commissioner of Public Safety the certification of in-service training, including the number of hours and certification of competency for each driver.

#### 1. Pre-Trip Inspection

Both new and experienced drivers must be familiar with the elements of the mandatory pre-trip inspection required under Minnesota law including:

- a. The engine compartment -- belts, valves, fluid leaks
- b. Engine start, warning lights, gauges, horn
- c. Fuel level
- d. Brakes -- pedal reserve and air/vacuum gauges
- e. Interior -- seats, floor, lights
- f. Electrical charging system
- g. Emergency door
  - 1) smooth latch operation
  - 2) alarm buzzer
- h. Entrance door operation
- i. Lift door operation and alarm
- j. Lift equipment for wheelchairs
- k. Wheels, service brakes, emergency brake
- l. Exterior lights -- headlights, brake lights, market lights, turn signals
- m. Exhaust system
- n. Windows, windshield, and inspection sticker
- o. Eight-light system and stop arm
- p. Emergency equipment -- first aid kit, bodily fluids clean-up kit, flashlight, reflectors, two-way radio

#### 2. Fundamentals and Techniques of School Bus Driving

The driver training program must include:

- a. Relevant laws
- b. Rules of the road and School District safety policies
- c. Defensive driving
- d. Driving in inclement weather conditions
  - 1) reduced visibility -- rain, snow, fog
  - 2) wet roads
  - 3) icy roads
- e. Dealing with pedestrians and students in traffic
- f. Operation of the manual or automatic transmission
- g. The use of the drive train for stopping the school bus
- h. Situations where the hand brake will and will not stop a moving bus
- i. Steering and turning techniques
- j. Right and left turn maneuvers
- k. Gauging the speed of other vehicles on cross streets
- l. Use of mirrors
- m. Merging into traffic
- n. Visual perceptions
- o. Safe following distances
- p. Safe passing procedures
- q. Safe backing procedures
- r. Use of the eight-light system and School District policy regarding its use
- s. Loading and unloading procedures
- t. Knowledge of the danger zone concept
- u. Policies and Procedures for grade level railroad crossings
- v. Emergency use of the public address system
- w. Response to an approaching emergency vehicle while unloading
- x. Leaving the bus unattended at school sites

3. Special Education Transportation

Special education transportation requires skills and abilities that exceed those required to provide normal school bus service. Drivers will be familiar with:

- a. Handling of wheelchairs
- b. Operation of lift equipment
- c. What to do in a medical emergency
- d. Proper use of wheelchair securement devices
- e. School District policies on the use of seat belts on designated students
- f. Handicapping conditions
- g. Responsibilities of the bus driver and the bus aide
- h. School District policy in situations where a responsible person is not available to receive a student

4. Emergency Procedures

Drivers must be prepared to deal with emergency situations while operating on routes and field trips. Included in these emergency situations are mechanical breakdown, fire, accident, or passenger injury. Drivers are to receive training in:

- a. Identifying the degree of an emergency before beginning an evacuation
- b. Identifying a safe evacuation unloading area
- c. Preplanning emergency evacuations for both conventional and lift buses
  - 1) front rear, and both door evacuations
  - 2) evacuation of special education students
  - 3) evacuation of physically disabled students and students using wheelchairs
  - 4) placement of students in a safe location
- d. Cooperation in emergency evacuation drills
- e. Mechanical breakdowns
  - 1) stop bus in safe location
  - 2) keep passengers in bus if safe to do so
  - 3) take steps to warn motorists
  - 4) radio or call for assistance
- f. How to secure the school bus and place emergency triangles
- g. Use of the two-way communication system in an emergency
- h. When it is appropriate to evacuate the school bus
- i. How to supervise an emergency evacuation
- j. Emergency evacuation of the disabled
- k. Special considerations when evacuating a lift bus
- l. Lifting techniques for handling disabled students in an emergency situation
- m. Priorities when dealing with injured passengers
- n. How to use the school bus first aid kit
- o. Use and operation of the fire extinguisher
- p. Dealing with other motorists and the police
- q. Use of emergency reflectors and hazard lights
- r. Control of exposure to blood borne pathogens
- s. Use of body fluid clean-up kits
- t. School District policy on medical emergencies
- u. Recognition and handling of epileptic seizures
- v. How to respond if a passenger has a weapon on the bus

5. First Aid

All drivers must be currently certified in first aid and CPR and be familiar with the procedures for dealing with obstructed airways, shock, bleeding and seizures.

6. Private or Confidential Student Information

Types of student data that are considered private or confidential under Minnesota Statutes

7. Student Discipline

- a. Creating a positive attitude on the school bus
- b. Oral and visual communications skills between the driver and the passenger
- c. Dealing confidently with a disruptive student
- d. District discipline policy
- e. Developing and enforcing workable rules



- f. Incident report forms
- g. District policy on possession of weapons by a student
- h. District policy on sexual, racial and religious harassment/violence
- i. District policy on smoking

8. Human Relations

- a. Appropriate driver behavior
- b. Sensitivity to a diverse student population
- c. Sensitivity to handicapping conditions
- d. Relations with parents and school staff
- e. Working with a special education bus aide

9. Chemical Abuse

- a. How alcohol and/or drugs can affect driving skills
- b. Drug-testing programs
- c. State and federal requirements

B. Evaluation.

All drivers will be evaluated for the following competencies at least once annually:

- 1. safely operate the type of school bus the driver will be driving
- 2. understand student behavior, including issues relating to students with disabilities
- 3. ensure orderly conduct of students on the bus and handle incidents of misconduct appropriately
- 4. know and understand relevant laws, rules of the road and local school bus safety policies
- 5. handle emergency situations
- 6. safely load and unload students, and;

## VIII. EMERGENCY PROCEDURES

A. Fire.

In the event of a fire, the first priority is to evacuate the bus. Drivers will make certain passengers are safe before attempting to put out the fire.

B. Injuries/Medical Emergencies.

Drivers should first contact the dispatcher to call 911 in the case of serious injuries. Drivers should administer proper first aid in accordance with their training and level of ability. In the event an injured passenger is taken to the hospital, record the students' name and the name of the hospital where the student is sent.

C. Tornado.

If there is likelihood that the tornado will hit a vehicle, and there is no escape route available or no time to drive to a safe location, the driver should evacuate the bus, taking the first aid kit. The driver will take the students to the basement of a nearby building or to the nearest depression or ditch upwind (toward the storm) of the bus far enough away from the bus so that the bus will not roll over on them and instruct them to

cover their heads with their arms. If the students are wearing coats or jackets, these can be used to provide additional protection for their heads and bodies. Drivers should take only the first aid kit from the bus.

If drivers are on the road when they hear a tornado warning or spot a funnel, and there is no time to evacuate the students after stopping the bus, drivers should have the students assume the protective position, remaining in their seats, with their heads below window level.

D. Evacuation.

Drivers should evacuate buses only when there is a danger of fire, collision or other potential hazard. Drivers should inform passengers that there is an emergency, and in very calm and precise terms, tell them exactly what they are to do. When safely possible, drivers will keep all evacuees a minimum of 100 feet from the bus. They should be loaded back onto the bus only when the driver has determined it is safe to do so.

E. Accident.

In case of an accident, the driver should immediately assess students for injuries and begin any emergency first aid procedures if necessary. The driver must also notify the School District and law enforcement of any school bus accidents immediately.

Upon providing emergency care and notifying the District, the driver shall:

1. In cooperation with police officer and/or ambulance service, assist with the care of students.
2. See that all injured students receive proper care.
3. Determine facts pertaining to accident.
4. Call Transportation/District staff to give list of names and circumstances so they can begin calling parents.
5. Discuss the accident only with police and School District officials.
6. Record all students' names.
7. Not leave the scene of an accident until released by the driver's supervisor.

Before leaving for the day, the driver shall fill out an accident report. All bus accidents will be reported to the Department of Public Safety.

F. Cold Weather Stop.

If a driver is stuck or stalled in cold weather, the driver should call for assistance and wait for help. The driver should avoid relying on the engine to provide heat for the driver and passengers as long as possible. If it is necessary to run the engine to provide heat, the driver will make sure the exhaust pipe is clear of snow, open windows for ventilation, and check passengers frequently for headaches or drowsiness.

G. Dangerous Weapons.

If a driver observes or learns that a passenger may have a dangerous weapon on the bus, he or she should remain calm and call for assistance using a pre-determined code. The driver should give the location of the bus to the dispatcher, continue the route and wait

for assistance. The driver should not inform the passenger suspected of having the weapon that he or she knows of the weapon.

H. Lights.

In an emergency stop, the driver should turn on the four-way hazard warning lights, and running or clearance lights.

I. Getting Assistance.

Use the two-way radio communications system to get assistance. Drivers should report the location and number of the bus, the nature of the problem, and the status of the passengers. If the driver cannot use a radio to contact the dispatcher, ask a passerby or other motorist to do so from the nearest telephone. The driver should write out the number and location of the school bus, the nature of the emergency, and the status of the passengers.

IX. VEHICLE MAINTENANCE STANDARDS

- A. All school vehicles shall be maintained in safe operating conditions through a systematic preventive maintenance and inspection program adopted or approved by the School District.
- B. All school vehicles shall be inspected in accordance with legal requirements.
- C. Daily pre-trip inspections shall be required and prompt reports submitted of defects to be immediately corrected.

X. EXPENDITURES FOR SCHOOL BUS SAFETY ACTIVITIES

A description of School District funds expended for school bus safety activities from student transportation reserved revenue is kept in the office of the Transportation Safety Director and is available for review. As required by law, these expenditures will be annually reported to the Department of Public Safety.

The School District's expenditures for transportation safety are incorporated by reference into this policy.

XI. SCHOOL TRANSPORTATION SAFETY DIRECTOR

The School Board has designated an individual to serve as the School District's School Transportation Safety Director. The School Transportation Safety Director shall have day-to-day responsibility for pupil transportation safety, including transportation of nonpublic school children when provided by the District. The School Board authorizes the School Transportation Safety Director to designate each location where a school bus shall not use the stop-signal arm system and flashing red signals while loading or unloading school children. The School Transportation Safety Director shall annually submit in writing all such stops to the School Board for approval. The School Board Policy Committee will annually review

this policy and forward it to the School Board for approval. The name, address and telephone number of the School Transportation Safety Director are on file with the Superintendent. Any questions regarding student transportation or this policy should be addressed to the School Transportation Safety Director.

**Legal References:** Minn. Stat. § 122A.18, Subd. 8 (Board to Issue Licenses)  
Minn. Stat. § 123B.03 (Background Check)  
Minn. Stat. § 123B.42 (Textbooks; Individual Instructor or Cooperative Learning Material; Standard Tests)  
Minn. Stat. § 123B.88 (Independent School Districts; Transportation)  
Minn. Stat. § 123B.885 (Diesel School Buses; Operation of Engine; Parking)  
Minn. Stat. § 123B.90 (School Bus Safety Training)  
Minn. Stat. § 123B.91 (School District Bus Safety Responsibilities)  
Minn. Stat. § 144.057 (Background Studies on Licensees and Other Personnel)  
Minn. Stat. Ch. 169 (Traffic Regulations)  
Minn. Stat. § 169.011, Subds. 15 and 71 (Definitions)  
Minn. Stat. § 169.443 (Safety of School Children; Bus Driver's Duties)  
Minn. Stat. § 169.446, Subd. 2 (Driver Training Programs)  
Minn. Stat. § 169.451 (Inspecting School and Head Start Buses; Rules; Misdemeanor)  
Minn. Stat. § 169.454 (Type III Vehicle Standards)  
Minn. Stat. § 169.4582 (Reportable Offense on School Buses)  
Minn. Stat. §§ 169A.25-169A.27 (Driving While Impaired)  
Minn. Stat. § 169A.31 (Alcohol-Related School Bus or Head Start Bus Driving)  
Minn. Stat. §§ 169A.50-169A.53 (Implied Consent Law)  
Minn. Stat. § 171.02, Subds. 2, 2a, and 2b (Licenses; Types, Endorsements, Restrictions)  
Minn. Stat. § 171.168 (Notification of Conviction for Violation by a Commercial Driver)  
Minn. Stat. § 171.169 (Notification of Suspension of License of Commercial Driver)  
Minn. Stat. § 171.321 (Qualifications of School Bus Driver)  
Minn. Stat. § 171.3215, Subd. 1(c) (Canceling Bus Endorsement for Certain Offenses)  
Minn. Stat. § 181.951 (Authorized Drug and Alcohol Testing)  
Minn. Stat. Ch. 245C (Human Services Background Studies)  
Minn. Stat. § 609.02 (Definitions)  
Minn. Rules Parts 7470.1000-7470.1700 (School Bus Inspection)  
49 C.F.R. § 383.31 (Notification of Convictions for Driver Violations)  
49 C.F.R. § 383.33 (Notification of Driver's License Suspensions)  
49 C.F.R. § 383.5 (Transportation Definitions)

***Cross References:*** Policy 304 (Transportation of Pupils)  
Policy 430 (Transportation Employee Drug & Alcohol Policy)  
Policy 505 (Use of Student Records)  
Policy 515 (Discipline Policy)

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Revised: 3/03/11



**TECHNOLOGY ACCEPTABLE USE AND SAFETY POLICY**

**540**

**I. PURPOSE**

The purpose of this policy is to set forth policies and guidelines for access to the school district computer systems and acceptable and safe use of the Internet, including electronic communications.

**II. GENERAL STATEMENT OF POLICY**

In making decisions regarding student and employee access to the school district computer system and the Internet, including electronic communications, the school district considers its own stated educational mission, goals, and objectives. Electronic information research skills are now fundamental to preparation of citizens and future employees. Access to the school district computer system and to the Internet enables students and employees to explore global resources. The school district expects that faculty will blend thoughtful use of the school district computer system and the Internet throughout the curriculum and will provide guidance and instruction to students in their use.

**III. LIMITED EDUCATIONAL PURPOSE**

The school district is providing students and employees with access to the school district computer system, which includes Internet access. The purpose of the system is more specific than providing students and employees with general access to the Internet. The school district system has a limited educational purpose, which includes use of the system for classroom activities, educational research, and professional or career development activities. Users are expected to use Internet access through the district system to further educational and personal goals consistent with the mission of the school district and school policies. Uses which might be acceptable on a user's private personal account on another system may not be acceptable on this limited-purpose network. Acceptable uses are determined at the sole discretion of the district.

**IV. USE OF SYSTEM IS A PRIVILEGE**

While the school district's electronic systems are provided for the conduct of the school district's mission, it is understood that they may be used occasionally for personal use as well. Reasonable personal use is permitted, so long as it does not interfere with users' performance of their responsibilities and complies with applicable laws and policies. The personal use of both audio and video streaming media as well as the downloading of excessively large files for personal use interferes with the school district's use of the Internet and delivery of electronic mail and is therefore not acceptable personal use of the Internet.

The use of the school district system and access to use of the Internet is a privilege, not a right. Depending on the nature and degree of the violation and the number of previous violations, unacceptable use of the school district system or the Internet may result in one

or more of the following consequences: suspension or cancellation of use or access privileges; payments for damages and repairs; discipline under other appropriate school district policies, including suspension, expulsion, exclusion or termination of employment; or civil or criminal liability under other applicable laws.

## **V. UNACCEPTABLE USES**

A. The following uses of the school district system and Internet resources or accounts are considered unacceptable:

1. Users will not use the school district system to access, review, upload, download, store, print, post, receive, transmit or distribute:
  - a. pornographic, obscene or sexually explicit material or other visual depictions that are harmful to minors;
  - b. language or images that are inappropriate in the education setting or disruptive to the educational process;
  - c. information or materials that could cause damage or danger of disruption to the educational process;
  - d. language or images that advocate violence or discrimination toward other people (hate literature) or that may constitute harassment or discrimination, except as allowed in Policy 602 Controversial Issues.
2. Users shall not use district e-mail as part of a political campaign to support or oppose a political issue or the nomination or election of a candidate for public office except as otherwise agreed upon in school district employment agreements.
3. Users will not use the school district system to knowingly or recklessly post, transmit or distribute false or defamatory information about a person or organization, or to harass or bully another person, or to engage in personal attacks, including prejudicial or discriminatory attacks.
4. Users will not use the school district system to engage in any illegal act or violate any local, state or federal statute or law.
5. Users will not use the school district system to vandalize, damage or disable the property of another person or organization, will not make deliberate attempts to degrade or disrupt equipment, software or system performance by spreading computer viruses or by any other means, will not tamper with, modify or change the school district system software, hardware or wiring or take any action to violate the school district's security system, and will not use the school district system in such a way as to disrupt the use of the system by other users.

6. Users will not use the school district system to gain unauthorized access to information resources or to access another person's materials, information or files without the implied or direct permission of that person.
  7. Users will not attempt to gain unauthorized access to the school district system or any other system through the school district system, attempt to log in through another person's account, or use computer accounts, access codes or network identification other than those assigned to the user. Messages and records on the school district system may not be encrypted without the permission of appropriate school authorities.
  8. Users will not use the school district system to violate copyright laws or usage licensing agreements, or otherwise to use another owner's property without the owner's prior approval or proper citation, including the downloading or exchanging of pirated software or copying software to or from any school computer, and will not plagiarize works they find on the Internet.
  9. Users will not use the school district system for conducting business, for unauthorized commercial purposes or for financial gain unrelated to the mission of the school district.
- B. If a user inadvertently accesses unacceptable materials or an unacceptable Internet site, the user shall immediately disclose the inadvertent access to an appropriate school district official. In the case of a school district employee, the immediate disclosure shall be to the employee's immediate supervisor and/or the building administrator. This disclosure may serve as a defense against an allegation that the user has intentionally violated this policy. In certain rare instances, a user also may access otherwise unacceptable materials if necessary to complete an assignment and if done with the prior approval of and with appropriate guidance from the appropriate teacher or, in the case of a school district employee, the building administrator.

## **VI. FILTER**

- A. With respect to any of its computers with Internet access, school district personnel will monitor the online activities of minors and employ technology protection measures during any use of such computers by minors and adults. The technology protection measures utilized will block or filter Internet access to any visual depictions that are:
1. Obscene;
  2. Child pornography; or
  3. Harmful to minors.
- B. The term "harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

1. taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; or
  2. depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
  3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.
- C. An administrator, supervisor or other person authorized by the Superintendent may disable the technology protection measure, during use by an adult, to enable access for bona fide research or other lawful purposes.

## **VII. CONSISTENCY WITH OTHER SCHOOL POLICIES**

Use of the school district computer system and use of the Internet shall be consistent with school district policies and the mission of the school district.

## **VIII. LIMITED EXPECTATION OF PRIVACY**

- A. By authorizing use of the school district system, the school district does not relinquish control over materials on the system or contained in files on the system. Users should expect only limited privacy in the contents of personal files on the school district system.
- B. Routine maintenance and monitoring of the school district system may lead to a discovery that a user has violated this policy, another school district policy, or the law.
- C. An individual investigation or search will be conducted if school authorities have a reasonable suspicion that the search will uncover a violation of law or school district policy.
- D. Parents have the right to investigate or review the contents of files generated by their student.
- E. School district employees should be aware that the school district retains the right at any time to investigate or review the contents of their files and e-mail files. In addition, school district employees should be aware that data and other materials in files maintained on the school district system may be subject to review, disclosure or discovery under Minnesota Statutes, Chapter 13 (the Minnesota Government Data Practices Act).
- F. The school district will cooperate fully with local, state and federal authorities in any investigation concerning or related to any illegal activities or activities not in



compliance with school district policies conducted through the school district system.

#### **IX. INTERNET USE AGREEMENT**

- A. The proper use of the Internet, and the educational value to be gained from proper Internet use, is the joint responsibility of students, parents and employees of the school district.
- B. This policy requires the permission of and supervision by the school's designated professional staff before a student may use a school account or resource to access the Internet.

#### **X. LIMITATION ON SCHOOL DISTRICT LIABILITY**

Use of the school district system is at the user's own risk. The system is provided on an "as is, as available" basis. The school district will not be responsible for any damage users may suffer, including, but not limited to, loss, damage or unavailability of data stored on school district media, or for delays or changes in or interruptions of service or misdeliveries or nondeliveries of information or materials, regardless of the cause. The school district is not responsible for loss or damage to personal devices or media attached to district equipment. The school district is not responsible for the accuracy or quality of any advice or information obtained through or stored on the school district system. The school district will not be responsible for financial obligations arising through unauthorized use of the school district system or the Internet.

#### **XI. USER NOTIFICATION**

- A. All users shall be notified of the school district policies relating to Internet use.
- B. This notification shall include the following:
  - 1. Notification that Internet use is subject to compliance with school district policies.
  - 2. Disclaimers limiting the school district's liability relative to:
    - a. Information stored on school district media.
    - b. Information retrieved through school district computers, networks or online resources.
    - c. Personal property used to access school district computers, networks or online resources.
    - d. Unauthorized financial obligations resulting from use of school district resources/accounts to access the Internet.



3. A description of the privacy rights and limitations of school sponsored/managed Internet accounts.
4. Notification that, even though the school district may use technical means to limit student Internet access, these limits do not provide a foolproof means for enforcing the provisions of this acceptable use policy.
5. Notification that goods and services can be purchased over the Internet that could potentially result in unwanted financial obligations and that any financial obligation incurred by a student or staff member through the Internet is the sole responsibility of the student and/or the student's parents/guardians or the staff member incurring the obligation.
6. Notification that the collection, creation, reception, maintenance and dissemination of data via the Internet, including electronic communications, is governed by Policy 406, Public and Private Personnel Data, and Policy 505, Use of Student Records.
7. Notification that, should the user violate the school district's acceptable use policy, the user's access privileges may be revoked, school disciplinary action may be taken and/or appropriate legal action may be taken.
8. Notification that all provisions of the acceptable use policy are subordinate to local, state and federal laws.

## **XII. IMPLEMENTATION; POLICY REVIEW**

- A. The school district may develop appropriate user notification forms, guidelines and procedures necessary to implement this policy.
- B. The school district shall revise the user notifications, including student and parent notifications, if necessary, to reflect the adoption of these guidelines and procedures.
- C. The school district technology policies and procedures are available for review by all parents, guardians, staff and members of the community.
- D. Because of the rapid changes in the development of technology, the school board shall conduct a periodic review of this policy.

ADOPTED: May 6, 2002  
June 7, 2004  
October 5, 2006  
November 1, 2007 (No Changes)  
January 7, 2010  
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Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 524

Orig. 1996

Revised: \_\_\_\_\_

Rev. 2007

## **524 INTERNET ACCEPTABLE USE AND SAFETY POLICY**

*[Note: School districts are required by statute to have a policy addressing these issues.]*

### **I. PURPOSE**

The purpose of this policy is to set forth policies and guidelines for access to the school district computer system and acceptable and safe use of the Internet, including electronic communications.

### **II. GENERAL STATEMENT OF POLICY**

In making decisions regarding student and employee access to the school district computer system and the Internet, including electronic communications, the school district considers its own stated educational mission, goals, and objectives. Electronic information research skills are now fundamental to preparation of citizens and future employees. Access to the school district computer system and to the Internet enables students and employees to explore thousands of libraries, databases, bulletin boards, and other resources while exchanging messages with people around the world. The school district expects that faculty will blend thoughtful use of the school district computer system and the Internet throughout the curriculum and will provide guidance and instruction to students in their use.

### **III. LIMITED EDUCATIONAL PURPOSE**

The school district is providing students and employees with access to the school district computer system, which includes Internet access. The purpose of the system is more specific than providing students and employees with general access to the Internet. The school district system has a limited educational purpose, which includes use of the system for classroom activities, educational research, and professional or career development activities. Users are expected to use Internet access through the district system to further educational and personal goals consistent with the mission of the school district and school policies. Uses which might be acceptable on a user's private personal account on another system may not be acceptable on this limited-purpose network.

### **IV. USE OF SYSTEM IS A PRIVILEGE**

The use of the school district system and access to use of the Internet is a privilege, not a right. Depending on the nature and degree of the violation and the number of previous violations, unacceptable use of the school district system or the Internet may result in one or more of the following consequences: suspension or cancellation of use or access privileges; payments for damages and repairs; discipline under other appropriate school district policies, including suspension, expulsion, exclusion, or termination of

employment; or civil or criminal liability under other applicable laws.

## **V. UNACCEPTABLE USES**

A. The following uses of the school district system and Internet resources or accounts are considered unacceptable:

1. Users will not use the school district system to access, review, upload, download, store, print, post, receive, transmit, or distribute:
  - a. pornographic, obscene, or sexually explicit material or other visual depictions that are harmful to minors;
  - b. obscene, abusive, profane, lewd, vulgar, rude, inflammatory, threatening, disrespectful, or sexually explicit language;
  - c. materials that use language or images that are inappropriate in the education setting or disruptive to the educational process;
  - d. information or materials that could cause damage or danger of disruption to the educational process;
  - e. materials that use language or images that advocate violence or discrimination toward other people (hate literature) or that may constitute harassment or discrimination.
2. Users will not use the school district system to knowingly or recklessly post, transmit, or distribute false or defamatory information about a person or organization, or to harass another person, or to engage in personal attacks, including prejudicial or discriminatory attacks.
3. Users will not use the school district system to engage in any illegal act or violate any local, state, or federal statute or law.
4. Users will not use the school district system to vandalize, damage, or disable the property of another person or organization, will not make deliberate attempts to degrade or disrupt equipment, software, or system performance by spreading computer viruses or by any other means, will not tamper with, modify, or change the school district system software, hardware, or wiring or take any action to violate the school district's security system, and will not use the school district system in such a way as to disrupt the use of the system by other users.
5. Users will not use the school district system to gain unauthorized access to information resources or to access another person's materials, information, or files without the implied or direct permission of that person.
6. Users will not use the school district system to post private information

about another person, personal contact information about themselves or other persons, or other personally identifiable information, including, but not limited to, addresses, telephone numbers, school addresses, work addresses, identification numbers, account numbers, access codes or passwords, labeled photographs, or other information that would make the individual's identity easily traceable, and will not repost a message that was sent to the user privately without permission of the person who sent the message. *[Note: School districts should consider the impact of this paragraph on present practices and procedures, including, but not limited to, practices pertaining to employee communications, school or classroom websites, and student/employee use of social networking websites. Depending upon school district policies and practices, school districts may wish to add one or more of the following clarifying paragraphs.]*

- a. This paragraph does not prohibit the posting of employee contact information on school district webpages or communications between employees and other individuals when such communications are made for education-related purposes (i.e., communications with parents or other staff members related to students).
- b. Employees creating or posting school-related webpages may include personal contact information about themselves on a webpage. However, employees may not post personal contact information or other personally identifiable information about students unless:
  - (1) such information is classified by the school district as directory information and verification is made that the school district has not received notice from a parent/guardian or eligible student that such information is not to be designated as directory information in accordance with Policy 515; or
  - (2) such information is not classified by the school district as directory information but written consent for release of the information to be posted has been obtained from a parent/guardian or eligible student in accordance with Policy 515.

In addition, prior to posting any personal contact or personally identifiable information on a school-related webpage, employees shall obtain written approval of the content of the postings from the building administrator.

- c. These prohibitions specifically prohibit a user from utilizing the school district system to post personal information about a user or



another individual on social networks, including, but not limited to, social networks such as "MySpace" and "Facebook."

7. Users must keep all account information and passwords on file with the designated school district official. Users will not attempt to gain unauthorized access to the school district system or any other system through the school district system, attempt to log in through another person's account, or use computer accounts, access codes, or network identification other than those assigned to the user. Messages and records on the school district system may not be encrypted without the permission of appropriate school authorities.
  8. Users will not use the school district system to violate copyright laws or usage licensing agreements, or otherwise to use another person's property without the person's prior approval or proper citation, including the downloading or exchanging of pirated software or copying software to or from any school computer, and will not plagiarize works they find on the Internet.
  9. Users will not use the school district system for conducting business, for unauthorized commercial purposes, or for financial gain unrelated to the mission of the school district. Users will not use the school district system to offer or provide goods or services or for product advertisement. Users will not use the school district system to purchase goods or services for personal use without authorization from the appropriate school district official.
- B. A student or employee engaging in the foregoing unacceptable uses of the Internet when off school district premises also may be in violation of this policy as well as other school district policies. Examples of such violations include, but are not limited to, situations where the school district system is compromised or if a school district employee or student is negatively impacted. If the school district receives a report of an unacceptable use originating from a non-school computer or resource, the school district may investigate such reports to the best of its ability. Students or employees may be subject to disciplinary action for such conduct, including, but not limited to, suspension or cancellation of the use or access to the school district computer system and the Internet and discipline under other appropriate school district policies, including suspension, expulsion, exclusion, or termination of employment.
- C. If a user inadvertently accesses unacceptable materials or an unacceptable Internet site, the user shall immediately disclose the inadvertent access to an appropriate school district official. In the case of a school district employee, the immediate disclosure shall be to the employee's immediate supervisor and/or the building administrator. This disclosure may serve as a defense against an allegation that the user has intentionally violated this policy. In certain rare instances, a user also may access otherwise unacceptable materials if necessary to complete an assignment and if done with the prior approval of and with appropriate guidance



from the appropriate teacher or, in the case of a school district employee, the building administrator.

## **VI. FILTER**

*[Note: Pursuant to state law, school districts are required to restrict access to inappropriate materials on school computers with Internet access. School districts which seek technology revenue pursuant to Minn. Stat. § 125B.26 or certain federal funding, such as e-rate discounts, for purposes of Internet access and connection services and/or receive funds to purchase Internet accessible computers are subject to the federal Children's Internet Protection Act, effective in 2001. Those districts are required to comply with additional standards in restricting possible access to inappropriate materials. Therefore, school districts should select one of the following alternative sections depending upon whether the school district is seeking such funding and the type of funding sought.]*

### **ALTERNATIVE NO. 1**

*For a school district which does not seek either state or federal funding in connection with its computer system, the following language should be adopted. It reflects a mandatory requirement under state law, Minn. Stat. §125B.15.*

All computers equipped with Internet access and available for student use at each school site will be equipped to restrict, by use of available software filtering technology or other effective methods, all student access to materials that are reasonably believed to be obscene, child pornography or harmful to minors under state or federal law.

*[Note: The purchase of filtering technology is not required by state law if the school site would incur more than incidental expense in making the purchase. In the absence of filtering technology, school sites still are required to use "other effective methods" to restrict student access to such materials.]*

### **ALTERNATIVE NO. 2**

*Technology revenue is available to school districts that meet the additional condition of also restricting adult access to inappropriate materials. School districts that seek such state technology revenue may adopt or retain the following language. However, the school district is not required to do so.*

- A. All school district computers with Internet access and available for student use will be equipped to restrict, by use of available software filtering technology or other effective methods, all student access to materials that are reasonably believed to be obscene, child pornography or harmful to minors under state or federal law.
- B. All school district computers with Internet access, not just those accessible and available to students, will be equipped to restrict, by use of available software filtering technology or other effective methods, adult access to materials that are reasonably believed to be obscene or child pornography under state or federal law.

law.

### **ALTERNATIVE NO. 3**

*School districts which receive certain federal funding, such as e-rate discounts, for purposes of Internet access and connection services and/or receive funds to purchase Internet accessible computers are subject to the federal Children's Internet Protection Act, effective in 2001. This law requires school districts to adopt an Internet safety policy which contains the provisions set forth below. Also, the Act requires such school districts to provide reasonable notice and hold at least one public hearing or meeting to address the proposed Internet safety policy prior to its implementation. School districts that do not seek such federal financial assistance need not adopt the alternative language set forth below nor meet the requirements with respect to a public meeting to review the policy. The following alternative language for school districts that seek such federal financial assistance satisfies both state and federal law requirements.*

- A. With respect to any of its computers with Internet access, the school district will monitor the online activities of minors and employ technology protection measures during any use of such computers by minors and adults. The technology protection measures utilized will block or filter Internet access to any visual depictions that are:
  - 1. Obscene;
  - 2. Child pornography; or
  - 3. Harmful to minors.
- B. The term "harmful to minors" means any picture, image, graphic image file, or other visual depiction that:
  - 1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; or
  - 2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
  - 3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.
- C. An administrator, supervisor, or other person authorized by the Superintendent may disable the technology protection measure, during use by an adult, to enable access for bona fide research or other lawful purposes.

***[Note: Although school districts are not required to adopt the more restrictive provisions contained in either Alternative No. 2 or No. 3 if they do not seek state or federal funding, they***

*may choose to adopt the more restrictive provisions as a matter of school policy.]*

#### **VII. CONSISTENCY WITH OTHER SCHOOL POLICIES**

Use of the school district computer system and use of the Internet shall be consistent with school district policies and the mission of the school district.

#### **VIII. LIMITED EXPECTATION OF PRIVACY**

- A. By authorizing use of the school district system, the school district does not relinquish control over materials on the system or contained in files on the system. Users should expect only limited privacy in the contents of personal files on the school district system.
- B. Routine maintenance and monitoring of the school district system may lead to a discovery that a user has violated this policy, another school district policy, or the law.
- C. An individual investigation or search will be conducted if school authorities have a reasonable suspicion that the search will uncover a violation of law or school district policy.
- D. Parents have the right at any time to investigate or review the contents of their child's files and e-mail files. Parents have the right to request the termination of their child's individual account at any time.
- E. School district employees should be aware that the school district retains the right at any time to investigate or review the contents of their files and e-mail files. In addition, school district employees should be aware that data and other materials in files maintained on the school district system may be subject to review, disclosure or discovery under Minn. Stat. Ch. 13 (the Minnesota Government Data Practices Act).
- F. The school district will cooperate fully with local, state and federal authorities in any investigation concerning or related to any illegal activities or activities not in compliance with school district policies conducted through the school district system.

#### **IX. INTERNET USE AGREEMENT**

- A. The proper use of the Internet, and the educational value to be gained from proper Internet use, is the joint responsibility of students, parents, and employees of the school district.
- B. This policy requires the permission of and supervision by the school's designated professional staff before a student may use a school account or resource to access the Internet.

- C. The Internet Use Agreement form for students must be read and signed by the user, the parent or guardian, and the supervising teacher. The Internet Use Agreement form for employees must be signed by the employee. The form must then be filed at the school office. As supervising teachers change, the agreement signed by the new teacher shall be attached to the original agreement.

## **X. LIMITATION ON SCHOOL DISTRICT LIABILITY**

Use of the school district system is at the user's own risk. The system is provided on an "as is, as available" basis. The school district will not be responsible for any damage users may suffer, including, but not limited to, loss, damage, or unavailability of data stored on school district diskettes, tapes, hard drives, or servers, or for delays or changes in or interruptions of service or misdeliveries or nondeliveries of information or materials, regardless of the cause. The school district is not responsible for the accuracy or quality of any advice or information obtained through or stored on the school district system. The school district will not be responsible for financial obligations arising through unauthorized use of the school district system or the Internet.

## **XI. USER NOTIFICATION**

- A. All users shall be notified of the school district policies relating to Internet use.
- B. This notification shall include the following:
1. Notification that Internet use is subject to compliance with school district policies.
  2. Disclaimers limiting the school district's liability relative to:
    - a. Information stored on school district diskettes, hard drives, or servers.
    - b. Information retrieved through school district computers, networks, or online resources.
    - c. Personal property used to access school district computers, networks, or online resources.
    - d. Unauthorized financial obligations resulting from use of school district resources/accounts to access the Internet.
  3. A description of the privacy rights and limitations of school sponsored/managed Internet accounts.
  4. Notification that, even though the school district may use technical means to limit student Internet access, these limits do not provide a foolproof means for enforcing the provisions of this acceptable use policy.

5. Notification that goods and services can be purchased over the Internet that could potentially result in unwanted financial obligations and that any financial obligation incurred by a student through the Internet is the sole responsibility of the student and/or the student's parents.
6. Notification that the collection, creation, reception, maintenance, and dissemination of data via the Internet, including electronic communications, is governed by Policy 406, Public and Private Personnel Data, and Policy 515, Protection and Privacy of Pupil Records.
7. Notification that, should the user violate the school district's acceptable use policy, the user's access privileges may be revoked, school disciplinary action may be taken and/or appropriate legal action may be taken.
8. Notification that all provisions of the acceptable use policy are subordinate to local, state, and federal laws.

## **XII. PARENTS' RESPONSIBILITY; NOTIFICATION OF STUDENT INTERNET USE**

- A. Outside of school, parents bear responsibility for the same guidance of Internet use as they exercise with information sources such as television, telephones, radio, movies, and other possibly offensive media. Parents are responsible for monitoring their student's use of the school district system and of the Internet if the student is accessing the school district system from home or a remote location.
- B. Parents will be notified that their students will be using school district resources/accounts to access the Internet and that the school district will provide parents the option to request alternative activities not requiring Internet access. This notification should include:
  1. A copy of the user notification form provided to the student user.
  2. A description of parent/guardian responsibilities.
  3. A notification that the parents have the option to request alternative educational activities not requiring Internet access and the material to exercise this option.
  4. A statement that the Internet Use Agreement must be signed by the user, the parent or guardian, and the supervising teacher prior to use by the student.
  5. A statement that the school district's acceptable use policy is available for parental review.

## **XIII. IMPLEMENTATION; POLICY REVIEW**



- A. The school district administration may develop appropriate user notification forms, guidelines, and procedures necessary to implement this policy for submission to the school board for approval. Upon approval by the school board, such guidelines, forms, and procedures shall be an addendum to this policy.
- B. The administration shall revise the user notifications, including student and parent notifications, if necessary, to reflect the adoption of these guidelines and procedures.
- C. The school district Internet policies and procedures are available for review by all parents, guardians, staff, and members of the community.
- D. Because of the rapid changes in the development of the Internet, the school board shall conduct an annual review of this policy.

**Legal References:** 15 U.S.C. § 6501 *et seq.* (Children's Online Privacy Protection Act)  
 17 U.S.C. § 101 *et seq.* (Copyrights)  
 20 U.S.C. § 6751 *et seq.* (Enhancing Education through Technology Act of 2001)  
 47 U.S.C. § 254 (Children's Internet Protection Act of 2000 (CIPA))  
 47 C.F.R. § 54.520 (FCC rules implementing CIPA)  
 Minn. Stat. § 121A.0695 (School Board Policy; Prohibiting Intimidation and Bullying)  
 Minn. Stat. § 125B.15 (Internet Access for Students)  
 Minn. Stat. § 125B.26 (Telecommunications/Internet Access Equity Act)  
*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed.2d 731 (1969)  
*United States v. Amer. Library Assoc.*, 539 U.S. 194, 123 S.Ct. 2297, 56 L.Ed.2d 221 (2003)  
*Doninger v. Niehoff*, 527 F.3d 41 (2<sup>nd</sup> Cir. 2008)  
*Layshock v. Hermitage Sch. Dist.*, 412 F.Supp.2d 502 (W.D. Pa. 2006)  
*M.T. v. Cent. York Sch. Dist.*, 937 A.2d 538 (Pa. Commw. Ct. 2007)  
*J.S. v. Bethlehem Area Sch. Dist.*, 807 A.2d 847 (Pa. 2002)

**Cross References:** MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)  
 MSBA/MASA Model Policy 406 (Public and Private Personnel Data)  
 MSBA/MASA Model Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees)  
 MSBA/MASA Model Policy 506 (Student Discipline)  
 MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)  
 MSBA/MASA Model Policy 519 (Interviews of Students by Outside Agencies)  
 MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)  
 MSBA/MASA Model Policy 522 (Student Sex Nondiscrimination)

**MSBA/MASA Model Policy 603 (Curriculum Development)**  
**MSBA/MASA Model Policy 604 (Instructional Curriculum)**  
**MSBA/MASA Model Policy 606 (Textbooks and Instructional Materials)**  
**MSBA/MASA Model Policy 806 (Crisis Management Policy)**  
**MSBA/MASA Model Policy 904 (Distribution of Materials on School District Property by Nonschool Persons)**

## INTERNET USE AGREEMENT - STUDENT

### STUDENT

I have read and do understand the school district policies relating to safety and acceptable use of the school district computer system and the Internet and agree to abide by them. I further understand that should I commit any violation, my access privileges may be revoked, school disciplinary action may be taken, and/or appropriate legal action may be taken.

User's Full Name (please print): \_\_\_\_\_

User Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### PARENT OR GUARDIAN

As the parent or guardian of this student, I have read the school district policies relating to safety and acceptable use of the school district computer system and the Internet. I understand that this access is designed for educational purposes. The school district has taken precautions to eliminate controversial material. However, I also recognize it is impossible for the school district to restrict access to all controversial materials and I will not hold the school district or its employees or agents responsible for materials acquired on the Internet. Further, I accept full responsibility for supervision if and when my child's use is not in a school setting. I hereby give permission to issue an account for my child and certify that the information contained on this form is correct.

Parent or Guardian's Name (please print): \_\_\_\_\_

Parent or Guardian's Signature: \_\_\_\_\_

### SUPERVISING TEACHER

(Must be signed if applicant is a student)

I have read the school district policies relating to safety and acceptable use of the school district computer system and the Internet and agree to promote these policies with the student. Because the student may use the Internet on the school district computer system for individual work or in the context of another class, I cannot be held responsible for the student's use of the Internet on network. As the supervising teacher I do agree to instruct the student on acceptable use of the Internet and network and proper network etiquette.

Teacher's Name (please print): \_\_\_\_\_

Teacher's Signature: \_\_\_\_\_

## **INTERNET USE AGREEMENT - EMPLOYEE**

### **SCHOOL DISTRICT EMPLOYEE**

I have read and do understand the school district policies relating to safety and acceptable use of the school district computer system and the Internet and agree to abide by them. I further understand that should I commit any violation, my access privileges may be revoked, school disciplinary action may be taken, and/or appropriate legal action may be taken.

User's Full Name (please print): \_\_\_\_\_

User Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**NO CHANGES RECOMMENDED AT THIS TIME.**

**USE OF PEACE OFFICERS AND CRISIS TEAMS TO REMOVE STUDENTS WITH IEPs FROM SCHOOL GROUNDS 544**

**I. PURPOSE**

The purpose of this policy is to describe the appropriate use of peace officers and crisis teams to remove, if necessary, a student with an individualized education program (IEP) from school grounds.

**II. GENERAL STATEMENT OF POLICY**

The school district is committed to promoting learning environments that are safe for all members of the school community. It further believes that students are the first priority and that they should be reasonably protected from physical or emotional harm at all school locations and during all school activities.

All students, including those with IEPs, are subject to the terms of the school district's discipline policy. Building level administrators have the leadership responsibility to maintain a safe, secure, and orderly environment within which learning can occur.

However, that said, the school district has an obligation to adhere to the requirements of the laws governing the education and discipline of disabled students. This obligation may affect the manner in which disabled students are disciplined and the amount of discretion a building administrator may have to mete out various forms of discipline to these students.

To the extent appropriate steps are taken to protect the rights of disabled students, corrective action to discipline a student and/or modify a student's behavior will be taken by staff when a student's behavior violates the school district's discipline policy. This will often require consultation with and/or communication between building administrators and special educators knowledgeable about the student and special education law.

If a student with an IEP engages in conduct which, in the judgment of school personnel, endangers or may endanger the health, safety, or property of the student, other students, staff members, or school property, that student may be removed from school grounds in accordance with this policy.

**III. DEFINITIONS**

For purposes of this policy, the following terms have the meaning given them in this section:



- A. "Student with an IEP" or "the student" means a student who is eligible to receive special education and related services pursuant to the terms of the Individuals with Disabilities Act ("IDEA") and relevant state law.
- B. "Peace officer" means an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the Board of Peace Officer Standards and Training, charged with the prevention and detection of crime and the enforcement of general criminal laws of the state and who has the full power of arrest. The term "peace officer" includes a person who serves as a sheriff, a deputy sheriff, a police officer, or a state patrol trooper.
- C. "Police liaison officer" is a peace officer who, pursuant to an agreement between the school district and a political subdivision or law enforcement agency, is assigned to a school building for all or a portion of the school day to provide law enforcement assistance and support to the building administration and to promote school safety, security, and positive relationships with students.
- D. "Crisis team" means a group of persons, which may include teachers and non-teaching school personnel, selected by the building administrator in each school building who have received crisis intervention training and are responsible for becoming actively involved with resolving crises. The crisis team will also include the student's case manager and a special education administrator or designee. The building administrator or designee shall serve as the leader of the crisis team.
- E. The phrase "remove the student from school grounds" is the act of securing the person of a student with an IEP and escorting that student from the school building or school activity at which the student with an IEP is located.
- F. "Emergency" means a situation in which immediate intervention is necessary to protect a student or other individual from physical injury, emotional abuse due to verbal and nonverbal gestures, or to prevent severe property damage.
- G. All other terms and phrases used in this policy shall be defined in accordance with applicable state and federal law or ordinary and customary usage.

#### **IV. REMOVAL OF STUDENTS WITH IEPs FROM SCHOOL GROUNDS**

##### **A. Removal By Crisis Team**

If the behavior of a student with an IEP escalates to the point where the building administrator concludes that the student's behavior endangers or may endanger the health, safety, or property of the student, other students, staff members, or school property, the school building's crisis team may be summoned. Whenever possible the student's case manager will be consulted regarding the student's IEP and behavior intervention plan to ensure staff are responding to the conduct consistent with the directives in those plans. When such measures fail, or when

the crisis team determines that the student's behavior continues to endanger or may endanger the health, safety, or property of the student, other students, staff members, or school property, the crisis team may remove the student from school grounds consistent with the requirements of the Pupil Fair Dismissal Act and other relevant law.

If the student's behavior cannot be safely managed, school personnel may immediately request assistance from the police liaison officer or a peace officer.

**B. Removal By Police Liaison Officer or Peace Officer**

If a student with an IEP engages in conduct which endangers or may endanger the health, safety, or property of the student, other students, staff members, or school property and the District has attempted the interventions set forth in the student's behavior plan and IEP when possible, then the school building's crisis team, building administrator, or the building administrator's designee, may request that the police liaison officer or a peace officer remove the student from school grounds.

Whether or not a student with an IEP engages in conduct which endangers or may endanger the health, safety, or property of the student, other students, staff members, or school property, school district personnel may report a crime committed by a student with an IEP to appropriate authorities. If the school district reports a crime committed by a student with an IEP, school personnel shall transmit copies of the special education and disciplinary records of the student for consideration by appropriate authorities to whom it reports the crime, to the extent that the transmission is permitted by the Family Education Rights and Privacy Act (FERPA), the Minnesota Government Data Practices Act, and school district's policy, Protection and Privacy of Pupil Records.

The fact that a student with an IEP is covered by special education law does not prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with an IEP.

**C. Reasonable Force Permitted**

In removing a student with an IEP from school grounds, a school principal, other crisis team members, or the police liaison officer or other agents of the school district, whether or not members of a crisis team, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.

In removing a student with an IEP from school grounds, police liaison officers and school district personnel are prohibited from engaging in the following conduct:

1. Requiring the student to assume and maintain a specified physical position, activity, or posture that induces physical pain as an aversive procedure;
2. Presenting intense sounds, lights, or other sensory stimuli as an aversive stimulus;
3. Using noxious smell, taste, substance, or spray as an aversive stimulus;
4. Denying or restricting the student's access to equipment and devices such as hearing aids and communication boards that facilitate the student's functioning except temporarily when the student is perceived to be destroying or damaging equipment or devices;
5. Using faradic skin shock;
6. Restricting, totally or partially, the student's auditory or visual sense, except that study carols may be used as an academic intervention;
7. Withholding regularly scheduled meals or water; and/or
8. Denying the student access to toilet facilities.

D. Parental Notification

The building administrator or designee shall make reasonable efforts to notify the student's parent or guardian of the student's removal from school grounds as soon as possible following the removal.

E. Continued Removals; Review of IEP

Continued and repeated use of the removal process described herein must be reviewed in the development of the individual student's IEP or IIP.

F. Effect of Policy in an Emergency; Use of Conditional Procedures

If the school district seeks to remove a student with an IEP from school grounds under this policy due to behaviors that constitute an emergency and the student's IEP, IIP, or behavior intervention plan authorizes the use of one or more conditional procedures, the crisis team may employ those conditional procedures, in addition to any reasonable force that may be necessary, to facilitate the student's removal from school grounds. If the crisis team initiates use of conditional procedures in an emergency, the student's IEP team shall meet as soon as possible, but no later than five (5) school days after emergency procedures have commenced.

ADOPTED: 5/5/05