



**FOREST LAKE AREA SCHOOLS
FOREST LAKE, MN 55025**

January 5, 2012

AGENDA ITEM: 12.6

TOPIC: Transportation Employee Drug and Alcohol Policy #430

BACKGROUND: All school district transportation employees 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.

PROCESS: The School Board Policy Committee has reviewed this policy. They are recommending that it be replaced by the appropriate portions of MSBA Model Policy #416 – Drug and Alcohol Testing.

RECOMMENDATION: Approval of this policy.

THE POLICY COMMITTEE IS RECOMMENDING THAT OUR CURRENT POLICY 430 BE REPLACED WITH THE APPROPRIATE PORTIONS OF MSBA MODEL POLICY 416. THE MSBA MODEL POLICY IS LISTED FIRST WITH THE CURRENT POLICY STARTING ON PAGE 19.

TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL POLICY

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[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.]

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)

This sign off sheet from our current policy stays in.

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: _____

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.

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.
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;
 - (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 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.

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

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.

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 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.

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).

Policy Modification

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

ADOPTED: 8/21/95