

### **3.7—LICENSED PERSONNEL BUS DRIVER DRUG TESTING**

#### **Definitions**

“Clearinghouse” means the Federal Motor Carrier Safety Administration Commercial Driver’s License Drug and Alcohol Clearinghouse.

“Database” means the Commercial Driver Alcohol and Drug Testing Database of the Office of Driver Services of the Arkansas Department of Finance and Administration.

“Safety-sensitive function” includes:

1. All time spent inspecting, servicing, and/or preparing the vehicle;
2. All time spent driving the vehicle;
3. All time spent loading or unloading the vehicle or supervising the loading or unloading of the vehicle; and
4. All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

“School Bus” is a motorized vehicle that meets the following requirements:

1. Is designed to carry more than ten (10) passengers;
2. Is privately owned and operated for compensation, or which is owned, leased or otherwise operated by, or for the benefit of the District; and
3. Is operated for the transportation of students from home to school, from school to home, or to and from school events.

#### **Scope of Policy**

Each person hired for a position that allows or requires the employee to operate a school bus shall meet the following requirements:

1. The employee shall possess a current driver’s license authorizing the individual to operate the size school bus the individual is being hired to drive;
2. Have undergone a physical examination, which shall include a drug test, by a licensed physician or advanced practice nurse within the past two years; and
3. A current valid certification of school bus driver in service training.

Each person’s initial employment for a job entailing a safety-sensitive function is conditioned upon:

1. The District receiving a negative drug test result for that employee;
2. The employee submitting an electronic authorization through the Clearinghouse for the District to run a full query of the employee’s information in the Clearinghouse; and
3. The employee’s signing a written authorization for the District to request

information from:

- a) The Database; and
- b) Any U.S. Department of Transportation regulated employers who have employed the employee during any period during the two (2) years prior to the date of the employee's application.

All employees who perform safety-sensitive functions shall annually submit a written authorization for the District to conduct a limited query of the employee's information from the Clearinghouse. The District shall perform a limited query of all employees who perform safety-sensitive functions at least once each school year. If the District's limited query of the Clearinghouse shows that information exists in the Clearinghouse that may prohibit the employee from performing safety-sensitive functions, the District shall conduct a full query of the Clearinghouse on the employee within twenty-four (24) hours of conducting the limited query. If the District is unable to conduct a full query within twenty-four (24) hours due to the twenty-four

(24) hours falling on a weekend, holiday, or other day the District is closed or due to the failure of the employee to authorize the District to receive information resulting from the full query of the Clearinghouse, the employee shall not be permitted to perform any safety-sensitive function until the District conducts the full query and the results confirm that the employee's Clearinghouse record contains no prohibitions on the employee performing safety-sensitive functions.

### **Methods of Testing**

The collection, testing methods and standards shall be determined by the agency or other medical organizations chosen by the Board to conduct the collection and testing of samples. The drug and alcohol testing is to be conducted by a laboratory certified pursuant to the most recent guidelines issued by the United States Department of Health and Human Services for such facilities. ("Mandatory Guidelines for Federal Workplace Drug Testing Programs").

### **Requirements**

Employees shall be drug and alcohol free from the time the employee is required to be ready to work until the employee is relieved from the responsibility for performing work and/or any time they are performing a safety-sensitive function. In addition to the testing required as an initial condition of employment, employees shall submit to subsequent drug tests as required by law and/or regulation. Subsequent testing includes, and/or is triggered by, but is not limited to:

1. Random tests;
2. Testing in conjunction with an accident;
3. Receiving a citation for a moving traffic violation; and
4. Reasonable suspicion.

### **Prohibitions**

- A. 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;
- B. No driver shall use alcohol while performing safety-sensitive functions;
- C. No driver shall perform safety-sensitive functions within four (4) hours after using alcohol;
- D. No driver required to take a post-accident alcohol test under # 2 above shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post- accident alcohol test, whichever occurs first;
- E. No driver shall refuse to submit to an alcohol or drug test in conjunction with # 1, 2, and/or 4 above;
- F. No driver shall report for duty or remain on duty requiring the performance of safety- sensitive functions when using any controlled substance, except when used pursuant to the instructions of a licensed medical practitioner who, with knowledge of the driver's job responsibilities, has advised the driver that the substance will not adversely affect the driver's ability to safely operate his/her vehicle. It is the employee's responsibility to inform his/her supervisor of the employee's use of such medication;
- G. No driver shall report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive or has adulterated or substituted a test specimen for controlled substances.

Violation of any of these prohibitions may lead to disciplinary action being taken against the employee, up to and including termination.

### **Testing for Cause**

Drivers involved in an accident in which there is a loss of another person's life shall be tested for alcohol and controlled substances as soon as practicable following the accident. Drivers shall also be tested for alcohol within eight (8) hours and for controlled substances within thirty two (32) hours following an accident for which they receive a citation for a moving traffic violation if the accident involved: 1) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or 2) one or more motor vehicles incurs disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

### **Refusal to Submit**

Refusal to submit to an alcohol or controlled substance test means that the driver:

- Failed to appear for any test within a reasonable period of time as determined by the employer consistent with applicable Department of Transportation agency regulation;
- Failed to remain at the testing site until the testing process was completed;
- Failed to provide a urine specimen for any required drug test;
- Failed to provide a sufficient amount of urine without an adequate medical

- reason for the failure;
- Failed to undergo a medical examination as directed by the Medical Review Officer as part of the verification process for the previous listed reason;
- Failed or declined to submit to a second test that the employer or collector has directed the driver to take;
- Failed to cooperate with any of the testing process; and/or
- Adulterated or substituted a test result as reported by the Medical Review Officer.

School bus drivers should be aware that refusal to submit to a drug test when the test is requested based on a reasonable suspicion can constitute grounds for criminal prosecution.

### **Consequences for Violations**

Drivers who engage in any conduct prohibited by this Policy, who refuse to take a required drug or alcohol test, refuse to sign or electronically authorize the request for information required by law, or who exceed the acceptable limits for the respective tests shall no longer be allowed to perform safety sensitive functions. Actions regarding their continued employment shall be taken in relation to their inability to perform these functions and could include termination of their contract of employment.

Drivers who exhibit signs of violating the prohibitions of this Policy relating to alcohol or controlled substances shall not be allowed to perform or continue to perform safety- sensitive functions if they exhibit those signs during, just preceding, or just after the period of the work day that the driver is required to be in compliance with the provisions of this Policy. This action shall be based on specific, contemporaneous, articulable observations concerning the behavior, speech, or body odors of the driver. The Superintendent or his/her designee shall require the driver to submit to "reasonable suspicion" tests for alcohol and controlled substances. The direction to submit to such tests must be made just before, just after, or during the time the driver is performing safety-sensitive functions. If circumstances prohibit the testing of the driver the Superintendent or his/her designee shall remove the driver from reporting for, or remaining on, duty for a minimum of twenty-four (24) hours from the time the observation was made triggering the driver's removal from duty.

If the results for an alcohol test administered to a driver is equal to or greater than 0.02, but less than 0.04, the driver shall be prohibited from performing safety-sensitive functions for a period no less than twenty-four (24) hours from the time the test was administered. Unless the loss of duty time triggers other employment consequence policies, no further other action against the driver is authorized by this Policy for test results showing an alcohol concentration of less than 0.04.

### **Reporting Requirements**

The District shall report the following information about an employee who performs safety-sensitive functions to the Clearinghouse by the close of the third (3rd) business day following the date the District obtained the information:

1. An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
2. A negative return-to-duty test result;
3. A refusal to take an alcohol test;
4. A refusal to test determination; however, if the refusal to test determination is based on the employee's admission of adulteration or substitution of the specimen, the District shall only report the admissions made to the specimen collector; and
5. A report that the driver has successfully completed all follow-up tests as prescribed in the Substance Abuse Professional report.

The District shall report the following violations for an employee who performs safety-sensitive functions by the close of the third (3rd) business day following the date the District obtains actual knowledge of:

1. On-duty alcohol use;
2. Pre-duty alcohol use;
3. Alcohol use following an accident; and
4. Controlled substance use.

Legal References: A.C.A. § 6-19-108  
A.C.A. § 6-19-119  
A.C.A. 27-23-105  
A.C.A. §§ 27-23-201 *et seq.*  
A.C.A. § 27-51-1504  
49 C.F.R. § part 40  
49 C.F.R. § 382.101 – 605  
49 C.F.R. §§ 382.701 *et seq.*  
49 C.F.R. § 383.5  
49 C.F.R. § 390.5

Arkansas Division of Academic Facilities and Transportation  
Rules Governing Maintenance and Operations of Arkansas  
Public School Buses and Physical Examinations of School Bus  
Drivers

Additional Reference: ASBA Model Policies

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