



Book	Policy Manual
Section	BOARD POLICIES UNDER CONSIDERATION
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New Policy - Special Update

4162.01 - DRUG AND ALCOHOL TESTING OF EMPLOYEES WITHOUT CDL LICENSES WHO TRANSPORT STUDENTS IN ALTERNATIVE VEHICLES (Non-DOT Testing)

The Board of Education believes that the safety of students while being transported to and from school or school activities is of utmost importance and is the primary responsibility of the driver of the school vehicle. To fulfill such a responsibility, each driver, as well as others who transport students with Board-owned and/or operated ("Board-owned") vehicles, must be mentally and physically alert at all times while on duty. To that end, the Board has established this policy and others related to employees' health and well-being.

The Board recognizes that these drivers are not subject to Federal DOT testing, but are subject to non-DOT drug and alcohol testing as required by State law.

For purposes of this policy and the guidelines associated with the policy, the following definitions shall apply:

- A. The term *alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- B. The term *illegal drug* means drugs and controlled substances, the possession or use of which is unlawful, pursuant to Federal, State, and local laws and regulations.
- C. The term *controlled substance* includes any illegal drug and any drug that is being used illegally, such as a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity. The term does not include any legally-obtained prescription drug used for its intended purpose in its prescribed quantity unless such use would impair the individual's ability to safely perform safety-sensitive functions.
- D. The term *controlled substance abuse* includes excessive use of alcohol as well as prescribed drugs not being used for prescribed purposes, in a prescribed manner, or in the prescribed quantity.
- E. The term *transporting students* includes all tasks associated with the operation and maintenance of Board-owned alternative vehicles. This further includes any period in which an individual is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.
- F. The term *alternative vehicles* includes all vehicles that are designed for nine (9) passengers or less that do not meet school bus construction standards. These vehicles do not meet the Federal definition of commercial motor vehicles, and do not require a CDL license to operate.

This policy includes all regular and substitute drivers, other staff members who may drive students in

Board-owned alternative vehicles, or inspect, repair, and maintain Board-owned alternative vehicles.

- G. The term *while on duty* means all time from the time the employee begins to work or is required to be in readiness for work until the time the employee is relieved from work and all responsibility for performing work.

The Board expects all drivers to comply with Board Policy 4122.01 on Drug-Free Schools, which prohibits the possession, use, sale, or distribution of alcohol and any controlled substance on school property at all times. Further, the Board concurs with the State requirement that all drivers of alternative vehicles should be free of any influence of alcohol or controlled substances while on duty.

The Board directs the Superintendent to establish a drug and alcohol testing program whereby each regular and substitute driver, as well as any other staff member who transports students in alternative vehicles, is tested for the presence of alcohol in the driver's system, as well as for the presence of the following controlled substances:

- A. Marijuana
- B. Cocaine
- C. Opioids
- D. Amphetamines
- E. Phencyclidine (PCP)

A list of all active drivers that are not covered by DOT testing regulations but are expected to be qualified to operate alternative vehicles will be provided to the contracted certified testing center for purposes of managing random testing. This list, which may be updated seasonally, is to be separate and managed separately from the DOT testing list.

The drug tests are to be conducted similar to Federal DOT regulations a.) prior to employment, b.) for reasonable suspicion, c.) upon return to duty after any alcohol or drug rehabilitation, d.) post-accident, e.) on a random basis, and f.) on a follow-up basis.

Any staff member who tests positive shall immediately be prohibited from performing or continuing to perform safety-sensitive functions (e.g., driving any Board-owned vehicle) and be referred to the District's Employee Assistance Program.

Furthermore, if during any test the lab determines that an adulterant has been added to the specimen, then:

- A. the test will be considered positive and the employee shall be prohibited from driving any school vehicle and be referred to the District's Employee Assistance Program; and
- B. the employee will be re-tested with an observed collection to prevent the addition of an adulterant to the specimen.

Any staff member who refuses to submit to a test shall immediately be prohibited from performing or continuing to perform safety-sensitive functions (e.g., driving any Board-owned vehicle).

Staff members who voluntarily disclose that they have an addiction to alcohol or controlled substances may participate in the Employee Assistance Program, and will qualify for the receipt of medical insurance benefits for treatment of alcohol or substance abuse, including follow-up care, to the extent that such benefits are provided for or offered in the Board's health insurance package. Voluntary disclosure of an alcohol or drug addiction by a staff member will not subject the staff member to disciplinary action unless such disclosure is made after the staff member is selected to be tested or immediately prior to the selection of staff members to be tested. Nothing herein shall prevent the Board from disciplining a staff member for misconduct associated with the staff member's alcohol and/or drug use, regardless of whether the employee has disclosed having an alcohol or drug addiction.

If a staff member admits to failing a previous drug or alcohol test, or has refused to test, the staff member will not be permitted to perform safety-sensitive functions until completing the return-to-duty process.

A staff member will be subject to disciplinary action, up to and including termination, for any of the following reasons:

- A. reports for duty or performs work while having an alcohol concentration of any detectable amount or greater or provides student transportation within four (4) hours after using alcohol
- B. reports for duty or performs work while testing positive for using a controlled substance, or while being under the influence of a controlled substance
- C. refuses to disclose any therapeutic drug use or submit to drug and/or alcohol testing
- D. alters or attempts to alter or unduly influence alcohol and/or drug testing results
- E. fails to remain readily available for post-accident testing (including refraining from the use of alcohol for eight (8) hours following the accident or until undergoing a post-accident alcohol test, whichever occurs first, and notifying the staff member's supervisor of their location, if the staff member leaves the scene of the accident prior to the submission of a post accident test, unless the staff member's departure is to obtain necessary emergency medical care).

Prior to the beginning of the testing program, the Board shall provide a drug-free awareness program which will inform each CDL license holder and alternative vehicle drivers about:

- A. the dangers of illegal drug use, and controlled substance and alcohol abuse;
- B. Board Policy 4122.01 - Drug-Free Workplace, Policy 4161 - Unrequested Leaves of Absence/Fitness for Duty, Policy 4170 - Substance Abuse, and Policy 4170.01 - Employee Assistance Program;
- C. the topics identified in AG 4162A;
- D. the sanctions that may be imposed for violations of Policy 4122.01.

An alternative vehicle driver on a supplemental contract will participate in random drug testing as part of the supplemental contract compensation. For other contracted alternative vehicle drivers, all time spent undergoing an alcohol or controlled substance test, including travel time, will be paid at the staff member's regular rate of pay, or at the staff member's overtime rate, if applicable. Any staff member who is not allowed to return to work while awaiting test results will be compensated during the waiting period for all work time lost, including overtime, if applicable. The Board shall pay all costs associated with the administration of alcohol and controlled substance tests. This includes testing of the "split specimen" at a Federally certified laboratory if so requested by a staff member. Requests for a "split specimen" must be made within seventy-two (72) hours of receipt of the notification of a positive drug test. The Board will not pay for the employee's time while not on duty if the split specimen test results are positive.

Alcohol and drug test results shall be protected as confidential medical records as appropriate under Federal law (i.e., test results shall be provided on a right-to-know basis - the employee, the employer, and the substance abuse professional - and the results shall not be presented until analyzed by a Medical Review Officer).

A tested individual, upon written request, will be promptly provided copies of any records relating to the tested individual's use of drugs and alcohol, including any records pertaining to the tested individual's drug and alcohol tests. A tested individual must provide specific written consent before the tested individual's test result can be provided to any other person except as required by law.

All tests shall be conducted using Federal testing guidelines and be performed by a laboratory that is Federally certified.

The alcohol and drug testing program shall be under the direction of the Superintendent.

The Superintendent shall arrange for the required amount of training for appropriate staff members in drug recognition, in the procedures for testing, and in the proper assistance of staff members who are subject to the effects of substance abuse.

The Superintendent shall submit, for Board approval, a contract with a certified laboratory to provide the following services:

- A. testing of all first and second test urine samples;
- B. clear and consistent communication with the District's Medical Review Officer ("MRO") (may be provided through the contract with a certified testing facility);
- C. methodology and procedures for conducting random tests for controlled substances and alcohol;
- D. preparation and submission of all required reports to the District and the MRO.

The Superintendent shall also select the agency or persons who will conduct the alcohol breathalyzer tests, the District's MRO, and the drug collection site(s) in accordance with the requirements of the law.

Notification

A tested candidate shall be notified of the results of a pre-employment controlled substances test conducted under this part if the driver requests such results within sixty (60) calendar days of being notified of the disposition of the employment application.

A tested individual shall be notified of the results of random, reasonable suspicion, and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. The tested individual shall also be informed which controlled substance or substances were verified as positive.

The Superintendent shall make reasonable efforts to contact and request each driver who submitted a specimen under the employer's program, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with the MRO who has been unable to contact the driver.

The Superintendent shall immediately notify the MRO that the driver has been notified to contact the MRO within seventy-two (72) hours.

In the event that an individual is selected for testing, the Superintendent will inform the individual that the test is required by applicable law.

Reporting Test Results

The Superintendent shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this policy during the previous calendar year.

Educational Materials Related to Certain Board Policies and Procedures

CDL License Holders and other employees who transport students in alternative vehicles will be provided educational materials that discuss the employer's policies and procedures with respect to post-accident information and positive test results, among other things, at the time of hire or at any time when required to operate a school vehicle. The educational materials shall explain the requirements of the Board's policies and the District's procedures. The Board designates the Assistant Superintendent as the individual responsible for providing educational materials to CDL License Holders and other employees transport students in alternative vehicles. The educational materials will include, at a minimum, the following:

- A. the contact information for the Assistant Superintendent, who is the individual designated by the Board to answer questions about the educational materials
- B. a statement that all CDL License Holders and other employees who transport students in alternative vehicles are subject to Board policies addressing the misuse of alcohol and other controlled substances
- C. information sufficient to make clear to employees the period of the work day during which they are required to comply with the regulations
- D. information concerning prohibited conduct
- E. the circumstances under which employees are subject to testing for alcohol and/or controlled substances
- F. the procedures for testing for the presence of alcohol and controlled substances in order to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to confirm the results are attributed to the correct employee, including post-accident information,

procedures, and instructions required under Federal regulations

- G. the requirement that staff members must submit to alcohol and controlled substance testing as required by the District policy
- H. an explanation of what constitutes a refusal to be tested for alcohol or controlled substances and the attendant consequences
- I. the consequences of testing positive, including the requirements of immediate removal from student transportation functions, and the procedures regarding referral, evaluation, and treatment
- J. the consequences for employees found to have an alcohol concentration of any detectable amount
- K. 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 problem (the employee's or a co-worker's); and available methods of intervening when a drug or alcohol and/or controlled substances problem is suspected (including confrontation and how to refer someone to an Employee Assistance Program or to management), and
- L. indicating that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, including alcohol, is prohibited on all school board property and at school-sponsored activities

Individuals are strictly prohibited from reporting to work or being on duty while under the influence of alcohol or a controlled substance

These materials are to be distributed to each staff member upon being hired or transferred into a covered position thereafter. Each staff member will receive a copy of the educational materials and must sign a statement certifying receipt of such materials. A staff member who refuses to sign the requisite statement shall be prohibited from performing any safety-sensitive functions. Each employee (and a labor organization representing Board employees) shall receive written notice of the availability of this information, and the identity of the Board's designated representative in charge of answering questions about the materials.

Return-to-Duty (Safety-Sensitive Positions)

Employees who are removed from student transportation functions as a result of this policy must complete the following Return-to-Duty process:

- A. Must be evaluated by a qualified Substance Abuse Professional ("SSAP")
- B. Must successfully comply with and complete the SAP's prescribed education and/or treatment program
- C. Must have a follow-up evaluation by the SAP determining that the employee has complied with the program
- D. Must complete a return-to-duty drug and alcohol test and obtain a verified negative drug test result and/or an alcohol test result of no detectable amount before being permitted to return to the performance of student transportation functions
- E. Employees must comply with the SAP's written follow-up testing plan which will be administered by the District

An employee that fails to comply with any of the above shall not be returned to duty.

Subject to any collective bargaining agreement or other legal requirements, employees who are otherwise eligible to resume student transportation functions may not do so without the Superintendent's approval.

Legal References:

34 C.F.R. Part 84
 49 C.F.R. Part 382
 49 C.F.R. Part 40
 R.C. 3796.28

Legal

34 C.F.R. Part 84

49 C.F.R. Part 382

49 C.F.R. Part 40

R.C. 3796.28