

**MEDWAY SCHOOL BOARD POLICY  
DRUG AND ALCOHOL TESTING OF BUS DRIVERS - PROCEDURE**

The purpose of this rule is to provide guidance to supervisors and notice to drivers concerning the implementation of alcohol and controlled substance testing required by federal regulations. It does not attempt to provide a complete overview of or to limit or modify federal regulations, which should be referred to for more detailed information concerning testing procedures and consequences.

**I. PROGRAM ADMINISTRATOR**

The Superintendent of Schools has been designated as the Alcohol/Drug Testing Program Administrator. Questions concerning the testing program should be directed to the Program Administrator.

**II. SUBSTANCES TESTED FOR**

References to tests in this rule include both drug and alcohol tests unless the context specifies otherwise. The terms drug and controlled substances are interchangeable and have the same meaning. Drugs refer to marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines (including methamphetamines), MDMA (ecstasy) and 6-Acetylmorphine (heroin).

**III. DRIVERS SUBJECT TO TESTING**

All drivers who must have a Commercial Driver's License to perform their duties will be subject to the alcohol and/or drug testing as outlined in this rule and required by 49 CFR Part 382.

**IV. DRIVER COMPLIANCE WITH RULE AND REGULATIONS**

All employees must comply with this rule and federal regulations during any portion of the work day that they perform any duties relating to driving, including, but not limited to: driving; waiting to be dispatched; inspecting and servicing equipment; supervising; performing or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents.

**V. PROHIBITED CONDUCT**

Drivers shall not:

- Report to and/or remain on duty with an alcohol concentration of 0.02 or greater;
- Possess any alcohol while on duty;
- Use any alcohol while on duty;
- Use any alcohol within four hours before going on duty;
- Use any alcohol for eight hours after an accident which will require the driver to be tested for alcohol, or until tested after such an accident, whichever occurs first;
- Refuse to submit to a required alcohol and/or controlled substances test;
- Report to or remain on duty when using any controlled substance, except when used under a physician's orders and the physician has informed the driver that the use will not affect the safe operation of a vehicle;
- Report to or remain on duty if he/she has tested positive for controlled substance.

**VI. TESTS REQUIRED**

All drivers who are subject to testing will be tested under the following circumstances:

- A. **Pre-Employment** - Tests will be administered before a driver performs any safety-sensitive functions for the District. The tests will be required of an applicant only after he/she has been offered the position. Employment is conditional upon the applicant receiving negative alcohol and drug test results.

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- B. **Random** - Tests shall be conducted on a random basis at unannounced times throughout the year. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. The number of random alcohol tests annually shall be a minimum of 10 percent of the number of driver positions each selection period. The number of random drug tests annually will equal 50% of the average number of driver positions. Drivers will be selected by a scientifically valid random process and each driver shall have an equal chance of being tested each time selections are made.
- C. **Post-accident** - Drivers will be tested as soon as possible, but within 2 hours, after any accident:
- a. Involving a fatality;
  - b. If the driver receives a summons for a moving traffic violation as a result of the accident; and
    - i. Causes bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
    - ii. Should one or more motor vehicles incurring disabling damage as a result of the accident, require a motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
  - c. In addition, the following provisions will also apply:
    - i. **Alcohol:** If a test required under this section is not administered within two hours following the accident, the school unit shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test is not administered within eight hours following the accident, the school unit shall cease attempts to administer the test and shall prepare and maintain the same record. Records shall be submitted to the Federal Motor Carrier Safety Administration (FMCSA) upon request of the Associate Administrator.
    - ii. **Controlled Substances:** If a test required by this section is not administered within 32 hours following the accident, the school unit shall cease attempts to administer the test and shall prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FHWA upon request of the Associate Administrator.
  - d. The head bus driver will be notified immediately of any accident and may be required to go to the scene of the accident based on the severity of the situation. Once the situation has been assessed, the head bus driver will notify the superintendent.
- D. **Reasonable suspicion** - Tests shall be conducted when a supervisor trained in accordance with law has reasonable suspicion that the driver has violated the alcohol or drug prohibitions. This reasonable suspicion will be based on specific observations concerning the driver's appearance, behavior, speech or body odors. The observations may include indications of the chronic and withdrawal effects of controlled substances. In addition, the following provisions apply:

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- a. **Alcohol:** Alcohol testing will be performed only if the aforementioned observations are made during, just preceding, or just after the period of the worked day that the driver is required to be in compliance with this policy/procedure. If a test required under this section is not administered within two hours following the reasonable suspicion determination, the school unit shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required under this section is not administered within eight hours following a determination that reasonable suspicion exists, the school unit shall cease attempts to administer an alcohol test and shall state in the record reasons for not administering the test. The school unit shall submit to the FMCSA records of tests required by this section that were not completed within eight hours according to the mandates 49 CFR §382.307(3).
  - b. **Controlled Substances:** The school unit shall, within 24 hours or before the results of the controlled substances test are released, whichever is earlier, create a written record of the observations leading to a controlled substances test which shall be signed by the supervisor or school unit official making said observations.
- E. **Return to duty** - A drug or alcohol test shall be conducted when a driver who has violated the school departments drug or alcohol prohibition returns to performing safety-sensitive duties.
- Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result.
- Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and the school department's standards.
- F. **Follow-up** - A driver who violates one of the prohibitions listed in Section V above and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing shall be conducted just before, during or just after the time when the driver is performing safety-sensitive functions. A driver who previously tested positive and has returned to duty must submit to at least six (6) unannounced alcohol and/or controlled substance tests during the first year after returning to work. Follow-up tests will be unannounced and may continue for up to sixty (60) months after returning to work. Follow-up alcohol testing shall be conducted only when the driver is performing, just before, or just after ceasing to perform safety-sensitive functions.

**VII. TESTING PROCEDURES**

The School Department will arrange to have testing performed by persons ~~and~~ at facilities having adequate expertise to ensure that testing will be performed in a manner to protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver.

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**VIII. REQUIREMENT THAT DRIVERS MUST SUBMIT TO TESTS**

All drivers who are required by federal regulations to be subjected to tests must fulfill that requirement when so directed by the Program Administrator. Once a driver has been directed to submit to a test, he/she will proceed directly to the testing area. Drivers must comply with the lawful requests of the technician performing the test. Failure to comply with the regulations of this rule will be grounds for disciplinary action up to and including dismissal.

**IX. REFUSAL TO TEST**

The following circumstances will be construed as refusing to submit to a test:

- a. Failure to report to the designated testing area within thirty (30) minutes of being notified to submit to a required test; or
- b. Failure to provide a sufficient sample to be tested, either breath or urine as the case may be, unless medically determined impossible to do so.
- c. Engaging in conduct which obstructs the testing process;
- d. Refusal by an employee to complete and sign testing forms.

**X. RECORDS**

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and release only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of drugs or alcohol, including any records pertaining to his/her drug or alcohol tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

**XI. USE OF PRESCRIPTION DRUGS**

Drivers shall inform their supervisors if at any time they are using a controlled substance, which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect his/her ability to safely operate a commercial motor vehicle.

**XII. ENFORCEMENT**

- General rule - Any driver who violates either the Federal Motor Carrier Safety Regulations or this rule may be subject to disciplinary action up to and including dismissal.
- Removal from duty - Any driver who tests positive for alcohol concentration of .02 or above or drug use shall immediately be relieved from duty, without pay, for a minimum of 24 hours. No such driver shall be returned to duty, if at all, until the provisions of this section have been satisfied.
- In addition, any driver who refuses to submit to a post-accident, random, reasonable suspicion, return-to-duty or follow-up test(s) shall not perform or continue to perform safety-sensitive functions.
- Disciplinary action - An employee receiving a test indicating a blood alcohol concentration of .04 or above or a positive test for controlled substances shall be dismissed from employment unless the employee must first be allowed treatment under 26 M.R.S.A. Section 685 or other law, or if the Superintendent determines that

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compelling mitigating circumstances exist. A test indicating a blood alcohol concentration of .02 but less than .04 shall be grounds for discipline, up to and including dismissal, except as limited by law.

- **Referral** - A driver who violates the school departments prohibitions listed in Section V above will be given the names, addresses and telephone numbers of substance abuse professionals and counseling programs available to evaluate and resolve drug and alcohol-related problems. The driver shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with drug use or alcohol misuse.
- **Conditions of reinstatement** - Before a driver is returned to safety-sensitive duties, if at all, the driver must:
  - a. Have been evaluated by a substance abuse professional;
  - b. Have complied with any recommended treatment;
  - c. Have taken a return-to-duty test with a result indicating an alcohol concentration level of less than 0.02 and/or a verified negative test for controlled substances.
- **Training for Supervisors:** This school unit will assign persons who will be designated to determine whether reasonable suspicion exists to require a driver to undergo testing under Part 382, with at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances. Training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.
- Nothing contained in this administrative procedure shall prevent the Board from establishing and enforcing independent policies/ procedures relating to the possession, being under the influence of, distribution, sale or use of alcohol or controlled substances or any misconduct associated therewith and the penalties for violation of those policies/ procedures, up to an including dismissal.

**XIII. INFORMATION**

The Program Administrator will provide each driver subject to the Federal Motor Carrier Safety Regulations with a copy of this rule. In addition, the Program Administrator will provide printed material, which describes the effects of alcohol and/or controlled substance use or abuse on the individual's health, work and personal life, as well as information on the signs and symptoms of an alcohol or controlled substances problem, and the person designated by the school unit who can answer questions about the materials.

Any driver who wishes to seek personal and confidential advice on an alcohol and/or controlled substances problem may contact the Superintendent of Schools.

The Medway School Department shall provide parties subject to testing with written notice of materials and information available to them as required by Title 49, part 382.

**ACKNOWLEDGMENT**

I certify that I have received a copy of the Medway School Department's Administrative Rule on Driver Alcohol and Drug Use and Testing and other printed material explaining the effects of an alcohol and/or controlled substance problem.

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This form will be reviewed and signed annually and filed in the superintendent's office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Driver's Signature

Legal references: 49 CFR Parts 40, 382, 390, 395  
26 MRSA §681(8)(B); 685(2); 689

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

**Adopted: 10/19/95**

Revised first reading: March 2, 2016

Adopted: March 10, 2016