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- A. The Omnibus Transportation Employee Testing Act of 1991 requires alcohol and drug testing of safety-sensitive transit industries. The Department of Transportation (DOT) published rules mandating anti-drug and alcohol misuse prevention programs in February 1994. The 1994 rules generally require implementation beginning on January 1, 1995 for large employers (50 or more safety-sensitive employees) and January 1, 1996 for small employers (49 or fewer safety-sensitive employees).
- B. Nothing in this policy shall prohibit the dismissal or other disciplinary action against any employee pursuant to any other school board policy, division regulation or law. This policy is intended to supplement, and not supplant, any such policy, regulation or law. Conduct covered by this ruling may also be covered by division Policy P5-24. and Regulation R5-24 which may result in stronger disciplinary actions.

Whenever a school board policy or division regulation conflicts with state and/or federal regulations or law, the regulations and law from the higher jurisdiction shall prevail.

- C. Applicants and employees who must be tested are those who are required to have a Commercial Driver's License (CDL) to perform their jobs and should include transportation supervisor, bus garage foreman, drivers of school and activity buses, bus mechanics, substitute bus drivers and such other employees assigned safety-sensitive functions as recommended by the superintendent and approved by the school board.

Editor's Note: "Safety-sensitive Function" means any of those on-duty functions, including, but not limited to: waiting to be dispatched; inspecting, servicing or conditioning a commercial motor vehicle; all driving time; all time in or upon any commercial motor vehicle; all time loading or unloading a vehicle, all time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

D. Alcohol Testing Program

1. Prohibited Use

Performance of safety-sensitive functions is prohibited:

- a. While having a breath alcohol concentration of 0.04 percent or greater as indicated by an alcohol breath test.
- b. While using alcohol.
- c. Within four hours after using alcohol.

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Refusing to submit to an alcohol test and using alcohol within eight hours after an accident or until tested are prohibited.

2. Required Alcohol Tests/Exceptiona. Required Tests

- (1) Preemployment - conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time. Also required when employees transfer to a safety-sensitive position.
- (2) Post-Accident - conducted after accidents on employees whose performance could have contributed to the accident and for all fatal accidents.
- (3) Reasonable Suspicion - conducted when trained supervisor observes behavior or appearance that is characteristic of alcohol misuse.
- (4) Random - conducted on a random unannounced basis just before, during or just after performance of safety-sensitive functions.
- (5) Return-to-Duty and Follow-Up - conducted if an individual who has violated the prohibited alcohol conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

b. Exception

If a covered employee reports a dependence on, or addiction to, alcohol to his/her supervisor in advance of the need for testing the following shall apply:

- (1) the test requirement will be waived;
- (2) the employee shall perform no safety-sensitive duties;
- (3) the employee will be placed on sick leave, (and/or leave without pay if sick leave is not available) in order to enter into an approved rehabilitation program;

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- (4) the school board's obligation for the rehabilitation program shall be limited to the degree of treatment provided within its employee benefit plan;
- (5) Upon satisfactory completion of the rehabilitation program, return-to-duty tests will be conducted and a sequence of follow-up tests established.

3. Alcohol Testing Proceduresa. Test Devices

Evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration (NHTSA) shall be used to determine if a person has a prohibited alcohol concentration.

b. Screening Test

A screening test shall be conducted first. Any results less than 0.02 alcohol concentration will be considered a "negative" test. If the alcohol concentration is 0.02 or greater a second confirmation test shall be conducted.

c. Confirmation Test/Dispositions

- (1) If the confirmation test shows an alcohol concentration of 0.02 or greater, but less than 0.04:
 - (a) For job applicants, the hiring process will terminate;
 - (b) Employees shall not perform safety sensitive functions (i) until the next scheduled duty period - 24 hours, or (ii) a retest shows the alcohol concentration has fallen below 0.02.
- (2) If the confirmation test shows an alcohol concentration of 0.04 or greater:
 - (a) For job applicants, the hiring process will terminate;
 - (b) Employees shall not perform a safety-sensitive function until (i) evaluated by the substance abuse professional (SAP), (ii) treated (if required) by a substance abuse professional (SAP) and (iii) retested with an alcohol concentration results below 0.02. Failure to achieve the below 0.02 concentration will result in termination of

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employment in the safety-sensitive position. Work days lost as a result must be taken as sick leave (if available) and leave without pay.

E. Drug Testing Program1. Applicability/Required Tests

The federal drug testing rules cover the same categories of safety-sensitive employees as those enumerated in subsection C of this policy. The types of tests required are: Pre-employment, Reasonable Suspicion; Post-Accident; Random; Return-to-Duty and Follow-up.

2. Prohibited Use of Drugs

The illicit use of the following drugs by safety-sensitive employees, on or off duty, is prohibited.

- a. marijuana (THC metabolite)
- b. cocaine
- c. amphetamines
- d. opiates (including heroin)
- e. phencyclidine (PCP)

Editor's Note: For all the listed drugs except PCP there are some limited legitimate medical uses that may explain the positive test result. If the medical review officer's investigation validates appropriate medical use, a negative test will be reported.

3. Testing Proceduresa. Urinalysis/Split-Sample Testing

Drug testing will be conducted by analyzing a safety-sensitive employee's urine specimen (45 ml.-30 ml. for the primary specimen and 15 ml. for the split specimen). The analysis will be performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS).

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Only the primary specimen will be opened and used for the urinalysis. The split specimen bottle remains sealed and stored at the drug testing laboratory.

b. Medical Review Officer (MRO)

The school board shall retain the services of a licensed physician with knowledge of substance abuse disorders, and no affiliation with laboratories analyzing the division's drug tests, as its medical review officer (MRO). All tests shall be reviewed and interpreted by the MRO prior to being reported to school administrators.

c. Test Results/Dispositions

(1) If the MRO reports a positive result from the primary specimen, the hiring process will terminate for job applicants. Employees must be removed from safety-sensitive duty. Within 72 hours after being notified of a positive test by the MRO the employee may request the split specimen be sent to another DHHS certified laboratory for analysis. Until such time as the MRO reports the results of the split specimen testing, the employee will be assigned to other than safety-sensitive duties, required to take sick leave (if available) or placed on leave without pay at his or her supervisor's discretion. If no such request for a confirmation test is made, employment shall be terminated.

(2) If the MRO reports a positive test of the split specimen, employment shall be terminated.

F. Education and Training

The division shall provide an on-going training program to make safety-sensitive employees and their supervisors aware of the dangers of alcohol and drug abuse. In addition, the division may provide them an opportunity to seek assistance. This program shall include such elements as:

1. A pre-testing orientation meeting to review this policy and its implementing regulations
2. Discussions on alcohol and drugs in the workplace
3. Information on dealing with alcohol and drug abuse
4. Opportunity for confidential assessment;

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5. Reference materials for employees and supervisors;
6. Training for supervisors in early detection and referral procedures.

G. Records: Maintenance/Confidentiality1. Maintenance/Reports

The division's records coordinator shall maintain those alcohol/drug testing documents as are required by the U. S. Department of Transportation and compile such reports as directed by that agency.

2. Confidentiality

To preserve employee confidentiality federal regulations generally prohibit the division from releasing information pertaining to an alcohol or drug test of a covered employee except as required by law. The regulations provide however, that a covered employee is entitled, upon written request, to obtain copies of any records concerning the employee's use of alcohol/drugs, including test records.

H. Program Affiliations

The superintendent is authorized to negotiate agreements for services by the medical review officer, substance abuse professionals and such other persons as may be required by the alcohol/drug testing programs.

The superintendent is further authorized to negotiate with other school divisions to create a regional consortium for the purpose of reducing costs in program implementation.

All such agreements must be approved by the school board. Edit For drug-free workplace see division Regulation #R5-24.

Legal Reference: (1994)

Code of Va., §22.1-178. Requirements for persons employed to drive school bus.--". . . C. School Boards may require persons accepting employment after July 1, 1994, as a driver of a school bus transporting pupils to agree, as a condition of employment, to submit to alcohol and controlled substance testing. Any such tests shall be conducted in compliance with Board of Education regulations. . ." (1994)

The Omnibus Transportation Employee Testing Act of 1991.

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U. S. Department of Transportation (DOT), Office of the Secretary, Final Rule, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," Federal Register/Vol. 59, No. 160, August 19, 1994.

Editor's Note: See also (State) Supts. Memo, No. 34,3/4/94.

Adopted by School Board: January 3, 1995