

## ALCOHOL/DRUG-FREE WORKPLACE

Albemarle County Public Schools has a vital interest in maintaining a safe, healthful, and productive environment for its employees. The improper use of alcohol or illegal drugs, ~~or~~ unlawful use of prescription drugs, or the inappropriate use of non-prescription drugs or impairing substances undermines the quality of job performance, endangers co-workers and brings discredit to the ~~County~~school division.

The school division will not tolerate the possession or use of illegal drugs, alcohol, or the unlawful use of prescription drugs by its employees in any job-related context and is committed to the eradication of them from the workplace. This policy is not intended to prevent school division employees from participating in social functions outside of school division facilities or schools where alcohol may be served. For purposes of this regulation, illegal drugs shall mean any controlled substance, whose unauthorized manufacture, distribution, dispensing, possession, consumption, use, or sale is prohibited by federal or state law. Unauthorized use of prescription drugs means use of a drug by anyone other than the person for whom the drug was prescribed, or in any manner that is prohibited by federal or state laws.

Any school division employee determined to have violated this policy will be subject to disciplinary action up to and including dismissal.

All school division employees shall be responsible for reporting any evidence of the use of drugs or alcohol by students or staff to their principal/department head. All such reports shall be thoroughly investigated and reported to the Superintendent/Designee and appropriate action will be taken as necessary.

The Board will not tolerate any violation of the law and, in accordance with the law, will fully support any employee who, in good faith and with probable cause, acts to report the activities of students or other persons as they relate to the use of alcohol or drugs in the public schools/performing work or on County or school division property.

In order to comply with federal laws:

- a) Under the Drug Free Workplace Act of 1988, the school division requires that an employee notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. Failure to notify the school division of drug-related convictions is grounds for dismissal. The school division must notify any federal contracting agency within ten (10) days of having received notice that an employee engaged

in the performance of such contract has had any criminal drug statute conviction for a violation occurring in the workplace. The school division will impose a sanction on any employee who is so convicted, up to and including dismissal.

Employees are also required to comply with any other division arrest and conviction reporting policies and procedures.

- b) Under the United States Department of Transportation final rules implementing the Omnibus Transportation Employee Testing Act of 1991, the Albemarle County school division is required to establish a program to conduct pre-employment/pre-duty reasonable suspicion, random and post-accident alcohol and controlled substances testing of each applicant for employment or employee who is required to obtain a commercial drivers' license (CDL). The effective date of this program is January 1, 1995.

c) In any case in which policy conflicts with federal, state, or local law, the law shall supersede policy.

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Amended: December 12, 1994; December 8, 1997; August 8, 2002; August 14, 2014  
Reviewed: May 27, 2004

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Legal Ref.: 41 U.S.C. §§ 8103, 8104  
Code of Virginia, 1950, as amended, §22.1-78

**PROCEDURE FOR**

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**ALCOHOL/DRUG-FREE WORKPLACE**

I. ~~I.~~ PURPOSE

To provide guidelines for establishment of an alcohol and drug-free workplace and to set out the school division's drug and alcohol testing program.

II. APPLICABILITY

This regulation applies to all employees. Federal law provides standards for creating a workplace free of illegal drugs with the passage of the Drug Free Workplace Act of 1988. In addition, required standardized tests have been established by the government with the passage of the Omnibus Transportation Employee Testing Act of 1991 (Omnibus Act) for employees who are drivers of commercial motor vehicles. Such testing has been endorsed by the State Department of Education (Superintendent's Memo No. 34 of March 4, 1994). The school division has exceeded these minimum requirements to establish and maintain a drug-free workplace for all employees.

III. DEFINITIONS

Commercial Motor Vehicle (CMV). A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle (1) has a gross combination weight 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 (2) has a gross vehicle weight rating of 26,001 or more pounds; (3) is designed to transport 16 or more passengers, including the driver; or (4) is of any size and is used in the transportation of hazardous materials requiring placards. This includes all school buses and qualifying vehicles in all departments.

Confirmation Test. ~~For alcohol, a~~ second alcohol test, following a screening test to detect alcohol in an individual's system, that provides quantitative data of alcohol concentration. For controlled substances, confirmation testing means a second analytical procedure to identify the presence of a specific drug or metabolite. Confirmatory drug testing is independent of the screen test and uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

Driver (CMV/CDL). Any person who operates a commercial motor vehicle (CMV) requiring a commercial ~~drivers~~driver's license (CDL) or is in a position which requires a CDL as an eligibility criteria because they must drive or be on call and ready to drive if

necessary. This includes ~~full-time~~full-time, ~~part-time~~part-time, and temporary personnel. In every position requiring a CDL, the employee is either driving or in a state of readiness on call if required to drive. Drivers are subject to drug and alcohol testing under both federal law and Albemarle County Public Schools policy. For purposes of pre-employment/pre-duty testing only, the term "driver" includes a person applying to Albemarle County Public Schools to drive a commercial motor vehicle.

Impairing Substance. Any substance, legal or illegal, that may impair an employee's ability to safely and effectively perform their job duties. This includes, but is not limited to, alcohol, illegal drugs, misuse of prescription or non-prescription medications, inhalants (such as solvents or aerosols), synthetic substances, and any other substance that affects cognitive function, motor coordination, judgement, or alertness.

Marijuana (Cannabis): For the purposes of this policy, marijuana and cannabis products are included within the definition of "illegal drugs" except when used in strict compliance with Virginia law regarding medical cannabis oil. Regardless of state or federal law as it pertains to the use of marijuana, impairment at work due to any cannabis product is prohibited.

Medical Review Officer (MRO). A licensed physician responsible for receiving ———laboratory results generated by an employer'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 ~~their~~his/her medical history and any ———other relevant biomedical information.

Omnibus Transportation Employees Testing Act of 1991. The federal law that requires drug and alcohol testing of drivers in various industries. By the authority of this Act, the Office of the Secretary of Transportation, U.S. Department of Transportation (DOT) on February 15, 1994, published rules requiring employers to test for the illegal use of alcohol and controlled substances each applicant for employment or employee who is required to obtain a CDL for the purpose of driving a Commercial Motor Vehicle (CMV) as previously defined. Compliance with the law commences January 1, 1995.

Over-the-Counter (OTC) Medication. A medication that is lawfully available for purchase without a prescription and used for legitimate health purposes in accordance with labeled directions. The lawful use of an ~~over-the-counter~~OTC medication does not, by itself, constitute a violation of this policy; however, employees are prohibited from reporting to work or performing job duties while impaired by the effects of any ~~over-the-counter~~OTC medication. Misuse of ~~over-the-counter~~OTC medication —including use in a manner inconsistent with labeled instructions or in combination with other substances in a way that may cause impairment —may constitute a policy violation.

Prescription Medication. A medication lawfully prescribed to an individual by a licensed healthcare provider for legitimate medical purposes and used in accordance with the provider's instructions and applicable law. The lawful use of a prescription medication does not, by itself, constitute a violation of this policy; however, employees are prohibited from reporting to work or performing job duties while impaired by the effects of any prescription medication. Misuse of prescription medication—including use without a valid prescription, use by anyone other than the individual for whom it was prescribed, or use in a manner inconsistent with prescribed directions—may constitute a policy violation.

Safety-Sensitive Function. An employee is performing a safety-sensitive function whenever ~~he/she is~~ they are engaged in driving a commercial motor vehicle (CDL required) or working in any employment capacity which could affect the safe operation of the vehicle and the safety and welfare of others. This includes any period in which the employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Screening Test. Also known as an initial test. In alcohol testing, an analytical procedure to determine whether an individual has a prohibited concentration of alcohol in his system. In controlled substances testing, an immunoassay test on urine specimens to eliminate "negative" specimens from further testing.

Split Sample Testing. Division of the urine specimen in alcohol or controlled substance testing into two separate containers, the primary specimen used for the screening test and the split specimen used if the employee requests a second test after being informed of a verified positive screening test.

#### IV. GUIDELINES

##### A. ~~A.~~—General Requirement Disciplinary Action

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All employees are expected to adhere to the following guidelines as a condition of their employment with the school division, and any violation of this regulation may subject the employee to discipline, up to and including dismissal from employment. Failure to fully participate or comply with testing or investigation will be grounds for disciplinary action.

##### B. ~~B.~~—Prohibited Conduct

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The manufacture, distribution, dispensing, possession, consumption, use, or sale of alcohol or illegal drugs, or unauthorized use of prescription drugs and impairing substances is strictly prohibited on School Board property, during work hours, or at any time that the employee is engaged in school division business ~~in~~

~~the school community~~, or at any time the employee is participating in an assigned activity involving students.

The following is also prohibited conduct:

1. refusal to submit to or cooperate with drug and/or alcohol testing which includes, but is not limited to: a) tampering with or attempting to adulterate the specimen or collection procedure; b) not reporting directly and immediately to the collection site; c) not accurately signing in and reporting the arrival and departure times at the test site; and d) leaving the scene of an accident without a valid reason before the tests have been concluded; or
2. failure to report consumption of over the counter or prescribed medication that could impair their ability to perform their duties safely; or
3. failure to report any drug or alcohol conviction or charge as required by this regulation and School Board policy.

HR, up to and including termination.

The manufacture, distribution, dispensing, possession, consumption use, or sale of illegal drugs at any time and in any place is strictly prohibited.

C. ~~C.~~ Fitness for Duty/Impairment Prohibition

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No employee shall report to work, perform assigned duties, engage in school division business ~~in the school community~~, or participate in an assigned activity involving students with detectable amounts of alcohol, illegal drugs, unauthorized prescription drugs, or illegal drug metabolites in ~~his/her~~their system.

-For all employees, impairment at work remains prohibited. Lawful use of alcohol, cannabis, prescription, and non-prescription medications does not excuse impairment on duty or misuse of the substance. When the circumstances necessitate testing, positive test results will be reviewed confidentially by the Medical Review Officer (MRO) in consultation with Human Resources to determine if a legitimate medical explanation exists in accordance with applicable law.

Employees have an ongoing duty to assess their ability to perform their duties safely and effectively ~~perform their duties~~. Employees who are using medications (whether prescribed or over-the-counter) that affect their ability to perform their

duties must notify their supervisor and/or Human Resources before reporting to work. Reasonable accommodation may be considered to ensure the employee can safely continue working, or alternative work arrangements or leave may be considered. Failure to disclose the use of impairing medications that impact an employee's ability to safely perform their work may result in disciplinary action; up to and including termination.

~~Whether the employee has alcohol, illegal drugs, unauthorized prescription drugs, or illegal drug metabolites in his/her system shall be determined in accordance with medically established standards for detectable amounts of these substances.~~

D. ~~D.~~—Limited Emergency Call-In Exception

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A limited exception applies when an employee who is not assigned to an on-call rotation is contacted outside their normal work hours for emergency or unscheduled duties and may have consumed alcohol or drugs or impairing substances -beforehand. In these cases, the employee must notify the supervisor of any off-duty alcohol or impairing substance drug consumption before accepting the assignment. The supervisor will assess whether it is safe and appropriate for the employee to report.

~~— Employees will not be disciplined for disclosing lawful off-duty alcohol or drug impairing substance use in this specific situation; however, no employee may report for duty under any circumstances while impaired.~~

~~The only limited exception to the foregoing pertains to employees who are not on an official on-call roster and who are called in to work outside their normal duty hours to perform emergency or unscheduled work. No such employee will be disciplined for off-duty consumption of alcohol that results in reporting to duty with alcohol in his their system so long as the employee first reports that consumption of alcohol to the supervisor making the work request prior to the commencement of any work activity. All division employees shall be responsible for reporting any evidence of the use of drugs or alcohol by students or staff to their principal/department head. All such reports shall be thoroughly investigated and reported to the Superintendent/Designee and appropriate action will be taken as necessary.~~

E. Duty to Report Suspected Use

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Any supervisor or employee who has actual knowledge of or reasonably suspects that an employee has violated this regulation and permits the employee to work or fails to report suspected use will be in violation of this regulation and will be subject to disciplinary action.

~~All employees are responsible for reporting have an ongoing obligation to report any evidence of the use of or related tangible evidence of alcohol, -drugs, or alcohol impairing substances in violation of this policy by students or staff to their principal or department head. Employees are also expected to report concerns pertaining to the division's Fitness for Duty policy GBEAC as well, regardless of the suspected or known cause. All such reports shall be thoroughly investigated, and appropriate action shall be taken.~~

~~F. E. Good Faith Reporting Protection:~~

The Board will not tolerate any violation of the law and, in accordance with the law, will fully support any employee who, in good faith and with probable cause acts to report the activities of students or other persons as they relate to the use of alcohol or drugs in the public schools or on Board property. Claims made by employees found to be contrary to this provision are subject to disciplinary action.

V. EMPLOYEE ASSISTANCE RECOGNITION AND TREATMENT

- A. Early recognition and treatment of alcohol and drug abuse are essential to successful rehabilitation. The school division maintains an employee assistance program known as Employee Assistance Program (EAP) to assist employees with alcohol and ~~drug-substance~~ abuse problems as well as with other personal problems. The EAP will assist employees with these problems and will also make referrals to appropriate treatment programs.
- B. Employees voluntarily seeking assistance for a substance abuse problem through the EAP or a medical source will not be disciplined as a result of their disclosure of prior drug or alcohol use, and treatment by the EAP or another source will be handled in confidence. An employee may not avoid disciplinary action for violation of this regulation by participating in a treatment program unless ~~he/she they do~~ does the following:
  - 1. Volunteers for such treatment prior to being confronted by a manager or supervisor ~~with the~~ regarding violation of this regulation.
  - 2. Successfully adheres to requirements of and completes the prescribed treatment program.
  - 3. Does not thereafter engage in conduct violating this regulation, ~~regarding use of alcohol, illegal drugs, and unauthorized prescription drugs.~~

- C. In the case of employees returning to work after successful completion of a treatment program, the school division reserves the right to test for drug and/or alcohol use, on a random or periodic basis in accordance with procedures for return to duty testing in section VIII.~~BA.32.~~ of this regulation.
- D. The school division shall establish a drug-free awareness program to inform all employees about the dangers of drug abuse in the workplace and that the maintenance of a drug-free workplace is the Board's goal. The awareness program shall identify counseling and rehabilitation programs and shall emphasize the penalties for employees' violating this policy and its administrative procedures.

VI. ALCOHOL

A. Reporting for Duty--All Employees

No employee shall report for duty or remain on duty while having detectable amounts of alcohol of 0.02 breath alcohol content (~~bae~~BAC) or higher in ~~his/her~~ their system. The division will test for alcohol using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA). ~~Any supervisor or employee who has actual knowledge, or reasonably suspects, that an employee has violated this regulation and permits the employee to work, or fails to report, will be in violation of this regulation except in reference to section IV, paragraph D, and will be subject to disciplinary action, up to an including, termination.~~

B. Testing Procedure

~~1. 1.——Supervisors must call Human Resources to confirm and initiate the testing process. All testing appointments shall be scheduled by Human Resources to ensure consistency and safety. The Department of Transportation may initiate testing without first notifying Human Resources.~~

~~2. Under no circumstances may the employee drive themselves to or from the testing site. Transportation must be provided by a supervisor or designee. The accompanying supervisor/designee must remain with the employee throughout the process. At the conclusion of the testing process, the employee shall be placed on administrative leave and may be released so long as they are not operating a motor vehicle.~~

3. Upon entering the test location, the employee will be asked to provide positive identification with photograph (example—: driver's license or employer identification badge) to the breath alcohol technician (BAT). The employee and the BAT will complete the Breath Testing Form distributed at the test site and follow required testing procedures. Providing incomplete information (except a social security number), ~~engaging in conduct that obstructs~~obstructing the testing process or failing to sign the \_\_\_\_\_ required certifications may be regarded as a refusal to take the alcohol test and ~~may constitute just cause~~grounds for ~~disciplinary action, up to and including dismissal from employment.~~ At the completion of the screening test, the results will be shown to the employee. If the result of the screening test shows evidence of detectable alcohol concentration, a confirmation test will be performed within specified time limits. If detectable amounts of alcohol of 0.02 ~~bae~~BAC or higher are verified in the confirmation test, the employee will be in violation of this regulation. An individual with a verified positive confirmation test may not leave the test site without approval from the attending physician or designee.
4. ~~2.~~ If a screening or confirmation test cannot be completed, or an event occurs that would invalidate the test, the BAT will conduct a new screening or confirmation test, as applicable. In the event that an employee attempts and fails to provide an adequate amount of breath, the employee will be required to submit to a blood test. Failure to comply will be grounds for disciplinary action.
- ~~5.3.~~ At the conclusion of testing, copies of the Breath Alcohol Testing form will be retained by the testing location, provided to the employee, and transmitted in a confidential manner to the Director of Human Resources, or Designee. If the test results are positive, the results will be reviewed by the Director of Human Resources who will in turn notify the employing school principal/department head/designee to determine ~~what action would be appropriate~~next steps.

## VII. CONTROLLED SUBSTANCES

### A. ~~A.~~ Reporting for Duty ~~---~~All Employees

No employee shall report for duty or remain on duty ~~having used controlled substances except when the use is authorized as prescribed medicine by the attending licensed physician who has advised the employee that the substance~~

does not adversely affect the employee's work performance while impaired by alcohol, marijuana, or other controlled or impairing substances.

Marijuana remains a controlled substance under federal law. Employees in safety-sensitive positions, including CDL holders and those subject to federal regulations, are strictly prohibited from marijuana use regardless of state law.

For all other employees, the division does not tolerate impairment in the workplace. Any positive drug test will be subject to review by a Medical Review Officer (MRO) and Human Resources, who will determine whether a legitimate medical explanation exists in accordance with applicable law.

A confirmed positive test result without legitimate medical explanation constitutes a violation of this regulation.

~~Any supervisor or employee who has actual knowledge, or reasonably suspects, that an employee has violated this regulation and permits the employee to work, or fails to report suspected use, will be in violation of this regulation, and will be subject to disciplinary action, up to and including, termination. Any supervisor who has actual knowledge that an employee has used an illegal drug and permits the employee to work will be in violation of this regulation.~~

~~A finding that an employee has a positive drug test results when the initial screen test and a confirmation test provide evidence of one or more of the following substances in the system: cocaine, marijuana, opiates, amphetamines and phenylelidine.~~

B. Reporting for Duty--Drivers (CMV/CDL)

In addition to the requirements in Section VII.A., drivers of commercial motor vehicles taking ~~over the counter~~ OTC or prescribed medications shall be responsible for knowing the effects of such medication. They shall not drive or perform other duties under the influence of prescription or ~~over the counter~~ OTC drugs that could impair their ability to perform their duties safely. ~~They shall be responsible for not working when under prescribed or over the counter medication that might impair their ability to perform their duties safely.~~ ~~Any supervisor or employee who has actual knowledge, or reasonably suspects, that an employee has violated this regulation and permits the employee to work, or fails to report, will be in violation of this regulation, and will be subject to disciplinary action, up to an including, termination.~~

C. Testing Procedure -- All Employees

1. Supervisors must call Human Resources to confirm and initiate the testing process. All testing appointments shall be scheduled by Human Resources to ensure consistency and safety. The Department of Transportation may initiate testing without first notifying Human Resources.
- ~~1.2.~~ For controlled substances testing, employees report to a specified test location where a urine sample is collected and subject to the split sample testing procedure. If the employee is unable to provide the specified quantity of urine, the employee will be instructed to drink not more than 40 ounces of fluid and wait up to three (3) hours at the facility to provide another sample. If a complete sample still cannot be provided, the Medical Review Officer (MRO) will refer the employee for a medical evaluation to determine if the inability to provide a specimen is genuine or constitutes a refusal to test and then report the findings in writing to the Department of Human Resources.
32. Strict chain of custody procedures will be followed as the samples are forwarded to the laboratory. If the primary specimen is verified positive, the MRO will notify the employee who can request that the split specimen be tested at the employer's expense at a different Department of Health and Human Services' certified laboratory. The employee must make the request within 72 hours of notification by the MRO. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the original test results.
43. Upon learning that the MRO is attempting to contact the employee, the employee must respond by calling the MRO within 24 hours of receipt of notification to call or will be in violation of this regulation.
54. If the employee does not contact the MRO within the 72 hours as required, the employee may present information to the MRO documenting a legitimate explanation for the employee's failure to contact the MRO within the 72 hours. The MRO may determine to honor the employee's request to test the split specimen. The MRO's decision to permit further testing is final. Test results shall be confidential and will be reported directly to the employee, the Director of Human Resources, or Designee, and upon request, to the U.S. Department of Transportation in the case of drivers of commercial motor vehicles. If the test results are positive, the results will be reviewed by the Director of Human Resources who will in turn notify the employing school principal/department head/designee to determine what action would be appropriate.

## VIII. TESTS REQUIRED

Testing shall be conducted by personnel designated by the school division. In general, the school division shall pay the cost of required drug and alcohol testing, including screening and confirmation tests for alcohol and primary specimen tests for drugs. The school division shall not pay if the employee's initial testing indicates the need for further examinations or consultation on a problem other than drug or alcohol use, in which case the employee shall pay the cost of the additional tests or examination. The school division shall not pay for diagnosis of or treatment for matters deemed not necessary for cause testing of suspected policy violation.

### A. A.—Testing

For safety-related positions, including drivers (CMV/CDL) pursuant to federal law and its own authority, the school division will test personnel in safety-related positions under the following circumstances.

1. Pre-employment/Pre-Duty
  - a. Prior to the first time an employee or new hire is placed into a safety-related position, the person shall be tested for alcohol and controlled substances and must be found to be in compliance with sections VI. And VII. of this regulation.
  - b. Applicants offered positions requiring CDLs must give written consent to permit the school division to contact all previous employers over the past two years to be certain that the applicant's work history was free of substance abuse, alcohol use, positive drug or alcohol test results and test refusals. Furthermore, applicants offered positions must provide written consent for post-accident testing and release of test(s) results to the school division.
2. Post Accident-For Drivers (CMV/CDL)
  - a. While on duty, a driver of a commercial motor vehicle who is involved in an accident must be tested for alcohol and controlled substances as soon as practicable following an accident and in compliance with this regulation. Post-accident testing will be required if (a) there is a fatality and/or (b) the driver receives a citation arising from the accident and the accident resulted in either, or both, of the following: (b.1) one or more persons requires

medical treatment away from the accident scene, and/or (b.2) one of the vehicles must be towed from the scene.

—————Every reasonable effort will be made to administer alcohol tests within two (2) hours of the accident. If a test has not been performed within eight (8) hours following the accident, efforts to test will stop. Controlled substance testing will stop if not performed within 32 hours following the accident. Supervisors are responsible to provide and forward written documentation to the Department of Human Resources any time alcohol testing is not performed within two hours and drug testing is not performed

within 32 hours. Written documentation should include the amount of time taken between the accident and testing and the reason for delay.

b. \_\_\_\_\_

b. \_\_\_\_\_ A driver who is subject to post accident testing shall remain readily available at the accident scene for testing following the accident until ~~he/she-they~~ undergoes testing or ~~he/she/they~~ will be deemed to have refused to submit to testing. The only exceptions to this requirement apply~~ies~~ when the driver leaves temporarily to obtain assistance in responding to the accident, to obtain necessary medical care or is detained by law enforcement personnel.

Without ~~supervisor~~

~~approval~~, an employee may not ingest food or drink during the period prior to testing. Testing conducted by federal, state, or local officials at the scene of the accident having independent authority to conduct tests for ~~alcohol-controlled~~ alcohol and controlled substances shall meet the requirement for post-~~accident~~ testing. Employees will be required to consent to testing by such officials, and to release the results of such tests to the school division.

### 3. Random

a. Alcohol and controlled substance tests will be conducted periodically on an unannounced basis throughout the calendar year. Employees will be randomly identified using a scientifically validated method and notified to report for testing during the work year. Under this selection process, each driver shall have an equal chance of being tested each time selections are made. Employees identified to be tested will report directly and immediately to the test site when notified by their supervisor. Otherwise, refusal to, or delay in, reporting immediately and directly to the test site will be considered a refusal to test and grounds for dismissal. If a driver is off work due to illness, vacations, leave of absence, layoff, injury, or for any other reason, for more than 30 calendar days, ~~his/her~~ their name will be removed from the random pool, and prior to returning to driving the pre-duty testing provision of this regulation shall apply.

b. For random alcohol testing, the minimum annual percentage rate shall be 25-~~percent~~% of all the commercial motor vehicle drivers. This percent may increase or decrease in any given year depending on the violation rate as determined annually for each industry by the Federal Highway Administration (FHWA) in accordance with

DOT guidelines. Drivers will only be tested for alcohol just before, during, or just after performing safety-sensitive duties.

c. For random drug testing, the minimum annual percentage rate shall be ~~50-percent~~% of all the commercial motor vehicle drivers. This rate for controlled substances may change annually, ~~similarly~~ to the alcohol adjustments. Drivers will be tested for controlled substances within 32 hours of random selection.

4. Annual Medical Examination (for school bus drivers only)

School bus drivers must satisfactorily pass the mandated state and School Board annual medical examination. A part of this examination requires that the examining physician certify that there is no reason to suspect that the employee is using illegal drugs or improperly using alcohol based upon a review of the medical history and examination. Drivers shall receive advance notice from Human Resources/Designee of their scheduled medical examinations or shall schedule such examinations themselves with school division contract providers.

~~5~~ ~~B5.~~ Reasonable Suspicion For All Employees

The school division will require drug and alcohol testing of any employee based on reasonable suspicion in accordance with this protocol. This includes situations authorized under the school division’s own authority as well as those governed by Department of Transportation (DOT) and Federal Highway Administration (FHWA) regulations for commercial drivers. ÷

a. ~~1. Reasonable Suspicion~~ Observed Behavior:- Reasonable suspicion testing may be initiated when a supervisor or other employee has direct articulable observations that an employee is under the influence of alcohol, illegal drugs, or prescription drugs in an unlawful or unsafe manner while on duty.

b. Transportation: Employees will be transported to the testing site by a designated school division representative. ~~Without supervisor approval,~~ an employee will not ingest food or drink ~~during the period~~ prior to testing.

c. ~~e.~~ Timing: The alcohol test shall not be performed more than eight (8) hours after the determination of reasonable suspicion. Whenever an alcohol test is not administered within the first two (2) hours upon determination of reasonable suspicion, a record will

be maintained which documents the reason(s) for the delay and how long the delay lasted.

d. After Hours Testing: If reasonable suspicion arises outside of normal business hours, employees will be sent to an after-hours designated facility. Supervisors must still contact Human Resources (or designee) for coordination and instructions.

e. Confidentiality and Employee Rights: The employee must be informed of the reason(s) for testing and advised that refusal to comply may be treated as insubordination or a direct policy violation, subject to disciplinary action up to and including dismissal. Testing will occur at a designated medical facility and will follow chain of custody and confidentiality protocols in accordance with HIPAA and PHI standards. All documentation must be completed within 24 hours of the observation (or before the test results are officially released, whichever comes first). Upon request, the employees may receive a copy of the written documentation.

## B. 2. REMOVAL FROM DUTY Removal from Duty

A. Employees will be removed from duty and placed on administrative leave pending test results and/or for cause. ~~pending a final decision for disciplinary action. Employees will be advised of their violation, have an opportunity to respond to the charges against them, and be notified in writing of the status of their employment.~~

B. The following circumstances, while not necessarily inclusive, require placing the employee on administrative leave pending a ~~final~~ decision regarding ~~on~~ the status of employment:

1. refusal to be tested or compliance with testing; ÷
2. confirmation of a positive test result;
3. after an accident requiring testing;
4. when reasonable cause has been established;
5. when the behavior, speech, and performance indicators of alcohol/drug misuse are impossible to confirm reasonable suspicion testing and additional investigation is required ~~with a test.~~

C. Return to Duty

Employees who have been found to not have violated policy will be returned to duty without disciplinary action. Those with findings will be addressed in accordance with School Board policy.

~~3. Return to Duty/and Follow Up Testing~~

~~a. A former driver (CMV/CDL), dismissed for violations of these regulations, who satisfactorily completes a rehabilitation program prescribed, monitored, and certified by a substance abuse professional may reapply for employment and receive fair consideration for all positions applied for except those requiring a CDL. If selected, the employee will be subject to a minimum of six random unannounced follow up alcohol and/or controlled substances tests at School Board expense during the first twelve months after employment.~~

~~b. In the event the school division allows any other employee to return to duty after engaging in conduct which violates this regulation, he/she will be sent to the EAP the division's designated provider and may be required to be evaluated by a substance abuse professional who shall determine the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use. Evaluation criteria used to determine if the employee may return to duty shall include but not be limited to: level of performance, years of service, previous conduct violations, possession of unique skills, knowledge and training, recommendation of a certified substance abuse professional, if available, and the safety sensitive nature of the position.~~

~~c. Referral to the substance abuse professional will be made through the Employee Assistance Program (EAP) division's designated provider. All follow up testing will comply with procedures as set forth in this regulation.~~

~~IX. REMOVAL FROM DUTY~~

~~A. Employees will be removed from duty and placed on administrative leave with pay pending a final decision for disciplinary action. Employees will be advised of their violation, have an opportunity to respond to the charges against them, and be notified in writing of the status of their employment.~~

~~B. The following circumstances, while not necessarily inclusive, require placing the employee on administrative leave pending a final decision on the status of employment:~~

~~1. refusal to be tested;~~

- ~~2. confirmation of a positive test result;~~
- ~~3. after an accident requiring testing;~~
- ~~4. when reasonable cause has been established;~~
- ~~5. when the behavior, speech, and performance indicators of alcohol/drug misuse are impossible to confirm reasonable suspicion with a test.~~

IX. REPORTING REQUIREMENTS AND VIOLATIONS~~DISCIPLINARY ACTIONS~~

~~A. Any employee Drivers of commercial motor vehicles (CDL required) and other CDL designated personnel, who engages in any of the following conduct will be terminatedare subject to termination in accordance with due process:~~

A. Reporting Arrests and Convictions

- ~~1. violate any of the foregoing rules regarding manufacturing, distributing, dispensing, possessing, consuming, using, or selling drugs or alcohol; or~~
- ~~2. have drugs or alcohol in their systems in violation of Policy GBEA or this regulation; or~~
- ~~3. refuse to submit to or cooperate with drug and/or alcohol testing which includes, but is not limited to: a) tampering with or attempting to adulterate the specimen or collection procedure; b) not reporting directly and immediately to the collection site; c) not accurately signing in and reporting the arrival and departure times at the test site; and d) leaving the scene of an accident without a valid reason before the tests have been concluded; or~~
- ~~4. fail to report their consumption of over the counter or prescribed medication that could impair their ability to perform their duties safely; or~~
- ~~5. fail to report any drug or alcohol conviction or charge as required by this regulation.~~

~~B. In addition, other employees may be subject to discipline, up to and including discharge, even for a first offense, if they:~~

- ~~1. violate any of the foregoing rules regarding manufacturing, distributing, dispensing, possessing, consuming, using, or selling drugs or alcohol;~~

- ~~2. have drugs or alcohol in their systems in violation of Policy GBEA or this regulation; or~~
- ~~3. refuse to submit to or cooperate with drug and/or alcohol testing which includes, but is not limited to: a) tampering with or attempting to adulterate the specimen or collection procedure; and b) not reporting directly and immediately to the collection site.~~

~~This regulation shall be administered consistently with the school division's obligations under federal, state, and local laws, as well as other school system regulations. Recommendations for disciplinary actions, including dismissal for violation of this regulation, will be consistent with standard operating procedures to ensure that due process is observed throughout all proceedings. Disciplinary actions affecting employment status shall be reviewed by the Superintendent's Office, Director of Human Resources, or Designee, before a final decision with respect to continued employment status or disciplinary actions is reached.~~

An employee who is charged with a drug-related felony or convicted of any drug-related criminal offense shall ~~adhere~~notify to division reporting requirements in School Board policy GCDA. ~~his/her immediate supervisor who shall report the information to the Director of Human Resources within five (5) days of the charge or arrest or prior to reporting for duty, whichever is earlier. This requirement shall not apply to an alcohol-related offense for employees except for commercial motor vehicle drivers, and other drivers required to maintain a CDL, and employees whose position responsibilities include the operation of a school division vehicle:~~

1. Employees Who Drive as Primary Occupation

If a ~~school division~~County employee is charged with or convicted of a motor vehicle offense involving alcohol, illegal ~~drugs~~drugs, or the misuse of legal drugs whether in or outside of the workplace and their position in the ~~County school division~~ requires driving as a primary responsibility, the ~~matter will be handled~~will be dismissed from their employment in accordance with ~~due process~~School Board policy. Upon being charged by legal authorities, the employee will be suspended ~~without pay~~ until the

case is resolved. If the employee is convicted, the employee will be dismissed effective the date ~~he/she was they were~~ originally suspended. ~~If not convicted, the employee will be reinstated with full pay retroactive to the date of suspension.~~

2. Other School Division~~County~~ Employees

School division~~County~~ employees whose primary occupation does not involve driving and who are convicted of a motor vehicle violation involving alcohol, illegal drugs, or the misuse of legal drugs will be suspended from driving a County or school division ~~v~~Vehicle for one year from the date of conviction. Employees convicted of such offenses must notify their immediate supervisor of the conviction and will be referred to the Employee Assistance Program for counseling. Employees may not drive an employer-owned vehicle at any time or any vehicle while performing school division business while they have a pending charge involving alcohol, illegal drugs, or the misuse of legal drugs. Employees may also be subject to disciplinary action in accordance with School Board policy.

B. Return to Duty and Follow-Up Testing

In the event the school division allows any employee to return to duty after engaging in conduct which has been found to violate this regulation, they will be sent to the division's designated provider and may be required to be evaluated by a substance abuse professional who shall determine the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use. Evaluation criteria used to determine if the employee may return to duty shall include, but not be limited to: level of performance, years of service, previous conduct violations, possession of unique skills, knowledge and training, recommendation of a certified substance abuse professional, if available, and the safety-sensitive nature of the position.

Referral to the substance abuse professional will be made through the division's designated provider. All follow-up testing will comply with procedures as set forth in this regulation. After the initial testing, subsequent testing and treatment may be at the employee's expense.

A former driver (CMV/CDL), dismissed for violations of these regulations, who satisfactorily completes a rehabilitation program prescribed, monitored, and certified by a substance abuse professional may reapply for employment and receive fair consideration for all positions applied for. If selected, the employee will be subject to a minimum of six (6) random unannounced follow-up alcohol

and/or controlled substances tests at School Board expense during the first 12 months after employment.

#### XI. RECORD RETENTION AND CONFIDENTIALITY

- A. All records and data relating to violations of this regulation shall be maintained in a secure location determined by the Director of Human Resources with controlled access by designated representatives. Test results may be released to and relied upon by the School Board in any disciplinary action taken by the school division, or to the court in any criminal proceeding. Testing records for drivers of commercial motor vehicles will be maintained in accordance with rules and regulations of the Federal Highway Administration, U.S. Department of Transportation.
- B. Test results shall be confidential and shall be communicated to individuals other than the employee and the Department of Human Resources staff only on a "need-to-know" basis, and only with the approval of the Director of Human Resources and, in appropriate cases, the employee. An employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substances. Test results for drivers of commercial motor vehicles may also be provided annually to the U.S. Department of Transportation in compliance with federal requirements.

#### XII. NOTIFICATION AND TRAINING

- A. Every employee is expected to be aware of this policy of the regulation and its requirements and to abide by the requirements. ~~Principals/Directors/program managers have the responsibility to ensure that all employees are made aware of this regulation. In addition, Principals/Directors/program managers should schedule a meeting with their respective staffs on an annual basis to review the provisions and requirements of this regulation.~~ All employees in positions requiring a CDL will be provided a copy of this regulation and shall sign a statement certifying receipt of such which will be maintained in the employee's personnel file.
- B.  
~~B.~~ Supervisors of employees in positions requiring a CDL, who are responsible for determining if reasonable suspicion exists, will undergo two one-hour training sessions, one each on substance abuse and on alcohol misuse. Training shall

include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

~~C.~~ D.—All designees to include supervisors, principals, department heads, and school nurses who may be involved in observing and/or responding to employee behavior will be required to complete Reasonable Suspicion Training provided by the division. This training includes instruction on identifying observable indicators of impairment, following proper reporting procedures, and completing required documentation. Protocols will be developed and communicated by Human Resources.

~~XIII.~~ APPEAL PROCEDURE

~~A.~~—Employees in positions requiring maintaining a valid CDL who choose to appeal a dismissal decision based on a positive drug or alcohol test result, or fail to pass the annual physical examination in the case of school bus drivers, must appeal to the Superintendent via their Director/Principal. All employees (including persons in positions requiring the CDL) who test positive based upon reasonable suspicion who choose to appeal a dismissal decision, must appeal to the Superintendent via their Director/Principal. Requests for retesting must be submitted within 24 hours of receiving the results.

~~B.~~—Appeals for Vviolations of these procedures are subject to the grievance procedure for eligible employees outlined in ~~Policies~~ policies GBM/GBMA.

~~XIIIIV.~~ POLICY OR PROCEDURES

~~A.~~—Questions related to this regulation should be directed to the Director of Human Resources.

~~B.~~—This policy states the School Board's current policy and regulation may be changed or modified without notice, consistent with applicable local, state or federal laws and regulations.

Adopted: July 1, 1993  
Amended: December 12, 1994; December 8, 1997; August 14, 2014  
Reviewed: May 27, 2004

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Cross Refs: GBCA, Employee Discipline  
GBE, Staff Health

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GBEAC, Fitness for Duty

GBEB, Reports of Certain Acts to School Authorities

GBM, Licensed Teaching Staff Grievances

GBMA, Classified Staff Grievances

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GBC, Leave Program

GCDA, Effect of Criminal Conviction or Arrest or Founded Complaint of Child Abuse and Neglect

GCP, Termination, Non-Renewal, and Dismissal