



Board Policy

Drug and Alcohol-Free Workplace For Operators of Commercial Motor Vehicles

**Personnel
Policy 4004.1**

Policy Statement

This Policy applies to employees who hold a position which requires the operation of a commercial motor vehicle or school bus (“Drivers”) with the Red Clay Consolidated School District (“District”) and school bus aides (“Aides”). It also applies to applicants who seek a Driver or Aide position with the District.

The purposes of this Policy are:

- To establish and maintain a safe, healthy learning environment for all students and working environment for all employees.
- To help establish and maintain safety on the roads and highways.
- To reduce the number of accidents and resulting injury to persons and property damage.
- To reduce absenteeism, tardiness, and improve productivity.
- To protect the reputation of the District and its employees within the community.
- To comply with applicable federal and state laws and regulations governing drug and alcohol abuse programs.

PROHIBITED CONDUCT

Drivers and Aides are prohibited from:

- Having a controlled substance or its metabolites in their system while at work, on District property, in a District vehicle, or at a District approved activity, event or function;
- Having an illegal drug or its metabolites in their system while at work, on District property, in a District vehicle, or at a District approved activity, event, or function.
- Having alcohol in their system while at work, on District property, in a District vehicle, or at a District approved activity, event or function;
- Engaging in the manufacture, distribution, possession, or use of a controlled substance while at work, on District property, in a District vehicle, or at a District approved activity, event or function;
- Engaging in the manufacture, distribution, possession, or use of drug paraphernalia while at work, on District property, in a District vehicle, or at a District approved

activity, event or function;

- Engaging in the distribution, possession, or use of alcohol while at work, on District property, in a District vehicle, or at a District approved activity, event or function;
- Reporting or remaining at work while unfit for duty as a result of the use of alcohol, a controlled substance, or medication (prescription or non-prescription) of any kind.

In addition, Drivers may not consume alcohol under the following circumstances:

- Four hours before performing a safety-sensitive function;
- While performing a safety-sensitive function;
- After a fatal accident until the Driver has been tested or eight hours has elapsed, whichever occurs first; or
- After a non-fatal accident if the Driver has received a citation under state or local law for a moving violation arising from the accident until the Driver has been tested or eight hours has elapsed, whichever occurs first.

OVER-THE-COUNTER AND PRESCRIPTION MEDICATIONS

Use of certain over-the-counter or prescription medication may affect behavior and performance, causing drowsiness or other physical side effects that impair the ability to drive a motor vehicle, operate equipment or safety perform one's job. Before reporting for work, it is the responsibility of every employee who uses prescription medication or over the counter medication that may affect his or her fitness for duty to obtain written medical clearance from the prescribing physician, his or her doctor, or other health care provider certifying that he or she is fit for duty. Employees who are unfit for duty due to the lawful use of over-the-counter or prescription medication may use sick leave in accordance with the District's sick leave policy until they are able to return to work.

TESTING OCCASIONS

Testing will occur under the following circumstances:

1. **Pre-employment.** All applicants who have been extended a formal offer of a position involving the operation of a commercial motor vehicle will be required to submit to a pre-employment drug test. All applicants who are interviewed will be notified, at the time of the interview, that they will be required to submit to a drug

test if they are made an offer of employment and that they will be subject to this Policy if they are ultimately hired. All testing shall occur before the applicant performs any safety-sensitive function.

2. **Post-Accident/Incident.** An employee may be required to submit to drug and alcohol testing if that employee is involved in a job-related accident or incident which resulted or could have resulted in personal injury or property damage.

A Driver involved in an accident while operating a commercial motor vehicle or school bus shall be required to submit to drug and alcohol testing if the employee received a citation under state or local law for a moving traffic violation arising from the accident. All Aides riding on a school bus shall be tested when the testing of the Driver of such bus is required.

A Driver involved in an accident while operating a commercial motor vehicle or school bus is responsible for ensuring that a drug and alcohol test is performed in accordance with applicable regulations of the Federal Motor Carriers Safety Administration (“FMCSA”) and the State of Delaware (“State”) and that the results are submitted to the District.

3. **Reasonable Suspicion.** An employee will be required to submit to drug and alcohol testing when there is reasonable suspicion to believe that the employee has alcohol or a controlled substance or its metabolites in his or her system. A determination that reasonable suspicion exists to require testing shall be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. Such observations must be made by an individual trained in detecting the symptoms of drug and alcohol use. A written record shall be made of the observations leading to a drug or alcohol test, and signed by the person who made the observations. No reasonable suspicion testing shall occur without the approval of one of the following individuals: Superintendent, Deputy Superintendent or Manager of Human Resources.
4. **Random.** Drivers and Aides shall be subject to random drug and alcohol testing in accordance with the guidelines established by the FMCSA and the State.
5. **Return-to-Duty.** All Drivers and Aides who violate this Policy through the use, possession, or distribution of

alcohol, and who are not terminated, shall be required to undergo a return-to-duty test with an alcohol concentration of less than 0.02 before being permitted to perform a safety-sensitive function. All Drivers and Aides who violate this Policy through the use, possession, or distribution of a controlled substance, and who are not terminated, shall be required to submit to and pass a drug test before being permitted to perform a safety-sensitive function.

6. **Follow up.** All Drivers and Aides who violate this Policy through the use, possession, or distribution of alcohol or a controlled substance, and who are not terminated, shall be evaluated by a Substance Abuse Professional (“SAP”). If the SAP determines that the Driver needs assistance in resolving problems associated with controlled substance or alcohol use, the Driver will be subject to unannounced follow-up testing. The number and frequency will be determined by the SAP, but will involve at least six (6) tests in the year following the Driver’s return to work. The testing can be extended for up to forty-eight (48) additional months upon the recommendation of the SAP.

TESTING PROCEDURES

A. Generally

A strict chain of custody will be maintained on all specimens.

If there is evidence of possible specimen dilution, alteration or tampering, this is treated as a positive test. If the individual elects he/she may request a second sample at his/her cost. The second sample will be collected under direct observation, and must be done immediately. Both samples will be submitted to the appropriate lab and tested.

Employees tested upon “reasonable suspicion” will be taken to a designated testing site by at least one of the individuals observing the conditions or behavior that constitute “reasonable suspicion.”

No employee believed to be under the influence of drugs or alcohol will be required to drive a vehicle to a designated testing site or home. Transportation will be arranged to and from the testing site.

For drug testing, a “split sample” method for collecting and analyzing urine shall be used. An individual testing positive

for a controlled substance may request, at his or her own expense, that a second test be conducted on the untested sample. This must be completed within 24 hours after the individual is contacted by the Medical Review Officer.

Screening alcohol tests may be administered by a Breath Alcohol Technician (“BAT”) using an evidential breath-testing device. Test results showing an alcohol concentration of 0.02 and above will require a confirmatory test. If a confirmatory test is conducted, a split sample shall be used.

Post-accident drug testing of Drivers and Aides must be administered within thirty-two (32) hours following the accident. Post-accident alcohol testing should be administered within two (2) hours of the accident, but no later than eight (8) hours following the accident. The requirement to test for drugs and alcohol following an accident should in no way delay necessary medical treatment for injured people or prohibit a Driver or Aide performing a safety-sensitive function from leaving the scene of an accident to obtain assistance or to obtain necessary emergency medical care. However, the Driver or Aide must remain readily available for testing, including notifying his or her supervisor of his or her location.

Random testing of Drivers and Aides shall be administered in accordance with the guidelines established by the FMCSA. Random testing shall be administered just before a Driver is to perform a safety-sensitive function, while an employee is performing a safety-sensitive function, or just after an employee has performed a safety-sensitive function.

FMCSA regulations require the District to release certain drug and alcohol test information when authorized in writing by a Driver. The release of such information may take the form of interviews, letters, or any other method that ensures confidentiality. A written, confidential record of any release of information will be made.

FMCSA regulations require that the District obtain certain controlled substances and alcohol test information in the possession of the previous employers of individuals applying to be Drivers with the District. It must, with the applicant’s consent, obtain information on the applicant’s alcohol test results with a concentration of 0.04 or greater, positive controlled substance test results, and refusals to be tested within the preceding two (2) years.

Persons designated by the District to determine whether reasonable suspicion testing of a Driver should occur will

	<p>receive at least sixty (60) minutes' of training on alcohol misuse and receive at least an additional sixty (60) minutes' of training on controlled substance abuse.</p> <p>All Drivers will also receive information concerning the effects of alcohol and controlled substance use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substance problem (the Driver's or a coworker's); and available methods of intervening when an alcohol or a controlled substance problem is suspected, including confrontation and referral to management.</p> <p>B. Medical Review Officer ("MRO")</p> <p>All positive test results will be forwarded by the testing laboratory to the Medical Review Officer ("MRO") retained by the District. The following is a list of the MRO's responsibilities:</p> <ol style="list-style-type: none"> 1. Receive confirmed positive results from laboratory. 2. Request, if needed, a quantitative description of test results. 3. Receive a certified copy of the original chain of custody. 4. Review and interpret positive test results. 5. Inform the tested individual and provide test results. 6. Conduct a medical interview with the tested individual. 7. Review the individual's medical history, or any other relevant biomedical factors. 8. Give the individual an opportunity to discuss the test results but not necessarily face to face. 9. Order a reanalysis of the original sample, if necessary. 10. Consult with the laboratory officials. 11. Review urinalysis results that do not comply with the mandatory guidelines. 12. Determine whether a result is consistent with legal drug use. 13. Forward results of verified positive tests to management 	
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officials to recommend or take administrative action.

ACTIONS PENDING RESULTS

Any employee required to submit to reasonable suspicion or post-accident testing under this Policy shall be suspended pending the results of his or her test.

REPORTING

Any violation or suspected violation of this Policy shall be reported to the Office of Human Resources. Law enforcement personnel shall be notified if criminal activity is discovered or suspected.

DISCIPLINE

The following discipline will be taken in the event of a positive test result:

- Any employee testing positive for a controlled substance shall be subject to discipline, up to and including termination.
- Any employee testing positive for an illegal drug or its metabolites shall be subject to discipline up to and including discharge.
- Any employee whose alcohol test shows an alcohol concentration of 0.02 or over shall be subject to discipline, up to and including termination.
- Any employee who refuses to submit to testing required by this Policy shall be subject to discipline, up to and including termination.
- Any employee, who engages in any other conduct prohibited by this Policy, but not discussed above, may be subject to discipline, up to and including termination.
- The District shall withdraw its offer of employment to any applicant who tests positive for a controlled substance.

In the event that the District, in its sole discretion, elects to provide the employee with a one-time opportunity to enter and successfully complete a rehabilitation program, the employee will be evaluated by a substance abuse professional (SAP). To be reinstated to full employment, the employee will need to meet the full requirements of the SAP. During rehabilitation, the employee will be subject to unannounced drug or alcohol testing. Upon return to work from rehabilitation, the employee will be subject to unannounced drug or alcohol testing for up to a period of sixty (60) months. Any test that is confirmed as positive

during or following rehabilitation will result in termination.

REFUSAL TO SUBMIT TO TESTING

Any of the following behavior will be considered grounds for discipline, up to and including termination:

- Refusal to take a drug or alcohol test;
- Inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation;
- Tampering with or attempting to adulterate the specimen or collection procedure; includes, but is not limited to dilution.
- Not reporting to the collection site in the time allotted.
- Failure to remain “readily available” for testing.

EMPLOYEE BENEFITS

The District has benefits available for employees who require drug or alcohol rehabilitation. Employees who voluntarily seek assistance for drug or alcohol abuse will not be disciplined for seeking such assistance. After an event has occurred that may subject an employee to testing under this Policy, however, the employee shall be subject to discipline, including discharge, pursuant to this Policy, notwithstanding any such request or prior treatment. Please refer to the District’s health care plans for specific information concerning coverage for alcohol or drug rehabilitation.

CONFIDENTIALITY

Test results will be kept confidential and will only be released to those employees of the District with a reasonable business need to know, as required by FMCSA regulations, a court of law, or as authorized by the employee or applicant.

THE RIGHT TO CHANGE POLICY

The District may change this Policy at any time subject to the obligations contained in any collective bargaining agreement. Employees will be notified if changes occur. No manager, supervisor, or other employee has the authority to enter into any agreements contrary to, or in conflict with, this Policy.

SEARCHES

An employee suspected of possessing alcohol, drug paraphernalia, an illegal drug, or a controlled substance on

	<p>school district premises is subject to inspection and search. Search may include desks, lockers, classrooms, offices, and other locations. Employees' personal belongings, including any bags, purses, briefcases, lunch boxes, clothing, and personal items in a District vehicle, are also subject to inspection and search.</p> <p>QUESTIONS</p> <p>Any questions regarding this Policy should be directed to the Office of Human Resources</p> <p>DRUG FREE AWARENESS PROGRAM</p> <p>The District shall establish a drug-free awareness program to educate employees about the dangers of drug abuse as well as the specifics of this Policy.</p>	
<p>Definitions</p>	<p>DEFINITIONS</p> <p>“Accident while operating a commercial motor vehicle” means an incident where a person has been fatally injured or is treated at a medical facility or when there has been property damage resulting in the towing of a vehicle.</p> <p>“Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol or other low-molecular-weight alcohol, or any beverage that contains more than one half (1/2) of one (1) percent of ethyl alcohol (ethanol) by volume, including but not limited to beer, wine, and distilled spirits. This also includes medications, either prescription or non-prescription, which contain alcohol.</p> <p>“Commercial motor vehicle” means 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; (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 materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.</p> <p>“Controlled substance” means a drug listed on Schedule I or Schedule II of the Controlled Substance Act, including marijuana, cocaine, opiates, phencyclidine (PCP), and</p>	

	<p>amphetamines.</p> <p>“District property” means all property owned, operated or controlled by the District, including, but not limited to: school buildings, offices, facilities, and surrounding areas on District-owned, leased, operated or controlled property, parking lots, and storage areas.</p> <p>“District vehicle” shall mean any District or state-owned vehicle or any other District approved vehicle (including, an employee’s own vehicle) used to transport students or employees of the District or otherwise used in the furtherance of District sponsored business or activities.</p> <p>“Driver” means any person who operates a commercial motor vehicle. The term driver includes a person applying to the District to drive a commercial motor vehicle.</p> <p>“Drug paraphernalia” means objects used to manufacture, compound, concert, produce, process, prepare, analyze, pack, repack, store, conceal, inject, ingest, inhale, or otherwise provide a means for a controlled substance to enter the human body.</p> <p>“Drug testing” includes the scientific analysis of urine, blood, breath, saliva, hair, tissue, and other specimens of the human body for the purpose of detecting a drug and/or alcohol. Regulated drug tests will use only urine as a specimen until applicable law and regulations permitted the use of other specimen sources.</p> <p>“Illegal drug” means any controlled substance as defined in this Policy; any drug that is not legally obtainable; any drug that is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level other than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical treatment.</p> <p>“Legal drug” means any over-the-counter drug or prescription medication that has been legally obtained and is being used for the purpose and by the person for which prescribed or manufactured. An employee must inform his/her supervisors when any medication renders the employee unfit for the safe performance of his/her job duties.</p> <p>“Medical Review Officer” (MRO) is a person who is a</p>	
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	<p>licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.</p> <p>"Metabolite" means one of various organic compounds produced by metabolism of drugs in the human body.</p> <p>"Safety-sensitive function" means any of those on-duty functions as set forth in 49 C.F.R. 395.2. On-duty time, 1-7 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 and unloading a vehicle; and all time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.</p> <p>"Substance Abuse Professional" (SAP) is a person who evaluates employees who have violated a Department of Transportation (DOT) drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.</p>	
Responsibility		
References	<p>16 Del. C. Ch. 47 Controlled Substances Act, 21 USC §812, schedules I-V Drug-Free Workplace Act of 1988, 41 USC §§701-707 Safe and Drug-Free Schools and Communities Act, 20 US §§7101-7117</p> <p>16 Del. C. § 2910</p> <p>14 Del. Admin. Code § 24</p>	
Adoption Date		
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