

MSAD # 56

Administrative Policy on Employee Alcohol/Drug Use and Testing

The purpose of this policy is to provide guidance to supervisors and notice to employees regarding alcohol and controlled substance testing required by federal regulations.

This policy does not attempt to provide a complete overview of the federal regulations, which should be referred to for more detailed information concerning testing procedures and consequences.

It is mutually agreed between the District and the Association that the use of alcohol and/or drugs in safety sensitive positions under the guidelines of this policy cannot be allowed. It is further agreed that employees who test positive and are determined by a substance abuse professional to need assistance, shall be afforded the opportunity for treatment and rehabilitation.

I. PROGRAM ADMINISTRATOR

The Superintendent of Schools or his/her designee 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 policy include both drug and alcohol tests, unless otherwise noted. 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).

III. EMPLOYEES SUBJECT TO TESTING

All drivers required to have a Commercial Driver's License (CDL) to perform their duties will be subject to alcohol and drug testing as outlined in this policy and required by 49 C.F.R. Part 382.

IV. EMPLOYEE COMPLIANCE WITH POLICY AND REGULATIONS

All Commercial Driver Licensed (CDL) employees must comply with this policy and federal regulations during any portion of the work day that they perform safety-sensitive 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 of students; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents.

V. PROHIBITED CONDUCT

Employees shall not:

- A. Report to and/or remain on duty requiring the performance of safety-sensitive functions with an alcohol concentration of 0.04 or greater;
- B. Possess any alcohol while on duty;
- C. Use any alcohol while on duty;
- D. Use any alcohol within four hours before going on duty to perform safety-sensitive functions;
- E. Use any alcohol for eight hours after an accident which will require the employee to be tested for alcohol, or until tested after such an accident, whichever occurs first;
- F. Refuse to submit to a required alcohol and/or controlled substance test;
- G. Report to or remain on duty requiring the performance of safety-sensitive functions when using any controlled substance, except when used under a physician's orders and the physician has informed the employee that the use will not affect the safe operation of a vehicle;
- H. Report to or remain on duty if he/she has tested positive for controlled substance.

VI. TESTS REQUIRED

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

- A. Pre-employment** - Tests will be administered before an employee 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.

- 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 performed annually will equal at least 25% of the average number of driver positions. The number of random drug tests annually will equal at least 50% of the average number of driver positions. Employees will be selected by a scientifically valid random process, and each shall have an equal chance of being tested each time selections are made.
- C. Post-accident** - Employees will be tested as soon as possible after an accident: (1) involving a fatality, or an accident involving property damage or (2) if the driver receives a summons for a moving traffic violation.
- D. Reasonable suspicion** - Tests will be conducted when a supervisor/administrator who has been trained in accordance with law has reasonable suspicion that the employee has violated the alcohol and drug prohibitions. This reasonable suspicion will be based on specific observations concerning the employee's appearance, behavior, speech or body odors. The observations may include indications of chronic and withdrawal effects of controlled substances.
- E. Notification** -Employees shall receive a written statement regarding the test, specifying (1) the date and time (2) the nature and purpose of the test and (3) the name of the supervisor/administrator ordering the test.
- F. Return to Duty** - A drug or alcohol test shall be conducted when an employee who has violated the district's 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 of 0.02 or less.

- G. Follow-up** - An employee 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 employee is performing safety-sensitive functions. An employee who previously tested positive and has returned to duty must submit to at least six (6) 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.

VII. TESTING PROCEDURES

The district will arrange to have testing performed by persons trained to operate the E.B.T (Evidential Breath Test) and proficient in breath testing procedures and at facilities having adequate expertise to ensure that testing will be performed in a manner to protect the employee and the integrity of the testing processes, safeguard the validity of the test results, assure employee confidentiality, and ensure that those results are attributed to the correct employees as outlined in the Part 40 rule of 49 CFR.

All testing for alcohol misuse will be conducted by trained Breath Alcohol Technicians (BATs). All testing to determine use or misuse will utilize measurement of expired breath with an Evidential Breath Test Device (EBT).

The selection of BATs shall be third (3rd) party providers in order to assure complete objectivity and prevent any conflict of interest.

VIII. REQUIREMENT FOR EMPLOYEES TO SUBMIT TO TESTS

All drivers who are required by federal regulations to be subject to tests must fulfill that requirement when so directed to submit to a test, he/she will proceed directly to the testing area. Employees must comply with the lawful requests of the technician performing the test. Failure to comply with the regulations or with this policy may be grounds for disciplinary action up to and including dismissal, in accordance with the negotiated collective bargaining agreement.

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.

X. RECORDS

Employee drug and alcohol test results and records shall be maintained according to 49 CFR Part 40 under strict confidentiality and released only in accordance with law. Upon written request, an employee shall receive copies of any records pertaining to his/her drug / alcohol tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the employee. The Association shall receive a copy of the annual report.

XI. USE OF PRESCRIPTION DRUGS

Prescription drugs that contain controlled substances may be used only if the physician has advised the employee that it will not adversely affect his/her ability to safely operate a vehicle. In the event that a prescribed drug has an effect on a person's ability to safely operate a vehicle, the employee may be eligible for sick time and/or subject to a temporary reassignment to a non safety-sensitive position by supervisor/Administrator.

XII. ENFORCEMENT

- A. **General Policy** - Any employee who violates either the Federal Motor Coach Safety Regulations or this policy may be subject to disciplinary action up to and including dismissal, in accordance with the negotiated collective bargaining agreement.
- B. **Removal from Duty** - Any employee who tests positive for alcohol with a concentration of 0.02 or above , or drug use shall immediately be relieved from duty for a minimum of 24 hours. No such employee shall be returned to duty until the provisions of this section have been satisfied. Disciplinary measures must be in accordance with the negotiated collective bargaining agreement.
- C. **Disciplinary Action** - An employee receiving a test indicating a blood alcohol concentration of 0.04 or above , or a positive test for controlled substances may be subject to discipline up to and including dismissal only after the employee is first

allowed treatment under 26 M.R.S.A. §685 or other law. Disciplinary measures must be in accordance with the negotiated collective bargaining agreement.

D. Referral - An employee who violates District prohibitions listed in Section V above will be given names, addresses and telephone numbers of substance abuse professionals and counseling programs available to evaluate and resolve drug and alcohol-related problems. The list of Substance Abuse Professional shall be agreed to by the Association. The employee shall be evaluated by a licensed substance abuse professional who shall determine what assistance, if any, is needed by the employee in resolving problems associated with drug use or alcohol misuse. The evaluative visit to the substance abuse professional shall be at the District's expense. If an employee disagrees with the evaluation of the Substance Abuse Professional, they may seek a second opinion from another Substance Abuse Professional on the list at the employee's expense. Employees may utilize accumulated sick leave, including the sick leave bank, if eligible, for drug and/or alcohol treatment.

E. Conditions of Reinstatement - After successful treatment and rehabilitation, an employee shall be returned to his/her original position. Before an employee is returned to safety-sensitive duties, he/she must:

1. Have been evaluated by a substance abuse professional;
2. Have complied with any recommended treatment; and
3. Have taken a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative test for controlled substances. During treatment, an employee may be placed in a non-safety sensitive position.

XIII. TRAINING OF SUPERVISORS/ADMINISTRATORS AND EMPLOYEES.

The District shall provide training for supervisors/administrators involved in the implementation of the Alcohol/Drug Use and Testing Policy as well as to employees covered by the policy, on an annual basis.

In addition, each CDL employee, and the Association President, shall receive from the District copies of educational materials explaining the policy and its implementation.

XIV. EMPLOYEE RIGHT TO REPRESENTATION

Upon request, an employee may utilize the presence of an Association representative at any stage of this procedure.

XV. INFORMATION

The program administrator will provide each employee subject to federal safety regulations with a copy of this policy. 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 substance problem.

Any employee who chooses to seek personal and confidential advice on an alcohol and/or controlled substances problem should contact a Substance Abuse Professional.

This policy shall not conflict with any applicable state and Federal laws and regulations.

APPROVED: August 8, 1995

REVISED: November 14, 1995

DATE OF IMPLEMENTATION: January 1, 1996

ACKNOWLEDGMENT

I certify that I have received a copy of the M.S.A.D. No.56 Administrative Policy on Employee Alcohol and Drug Use and Testing and other printed material explaining the effects of an alcohol and/or controlled substances problem.

Date: _____

(Employee's Signature)

Record of Training
Administrative Policy on Employee Alcohol/Drug Use and Testing

Name of Employee _____

Social Security Number _____

Date of Hire _____

I acknowledge that on _____, 19____, I received training from _____ on the District's implementation of the Administrative Policy on Employee Alcohol/Drug Use and Testing. I received training, materials, and a review of the policy.

I understand the materials for the implementation of the policy. **YES NO**

I would like further training in the implementation of the policy. **YES NO**

Date: _____

Employee Signature: _____