

PersonnelDrug and Substance Use and Abuse

It is the policy of the Scottsbluff Public School District to eliminate the influence of drugs, alcohol and other chemicals within the school environment and to educate students against the usage of drugs, alcohol, and illegal substances. The District will implement regulations and practices which will ensure compliance with laws relating to drugs and alcohol, including the Drug-Free Workplace Act, the Omnibus Transportation Employee Testing Act of 1991, and all regulations and rules promulgated pursuant thereto.

Section 1 - Drug-Free Workplace

The District has established the school as a drug-free workplace. The drug-free workplace for this purpose includes school grounds, school utilized vehicles, and places in which school activities are held. The District recognizes that the use, possession, or being under the influence of illicit drugs or alcohol constitutes a hazard to the positive development of students and employees and a substantial interference with school purposes.

The unlawful manufacture, distribution, disposition, possession, or use of a controlled substance is prohibited in the work place. Employees are also prohibited from possessing, using, or distributing illicit drugs or alcohol, or being under the influence of illicit drugs or alcohol, on any district property or district-sponsored event. Any level of impairment from illicit drugs, alcohol, or inhalants, and the presence of any odor of illicit drugs (such as marijuana) or alcohol in the work place or on duty time shall be a violation of the drug-free workplace.

The possession or distribution of a look-alike drug or look-alike controlled substance is prohibited. In addition, employees are expected to serve as role models for students and will be considered to have violated the District's expectations in the event the employee commits a criminal drug or alcohol offense off the work place or off duty time.

As a condition of employment, employees will abide by the District's drug-free workplace policies and notify the Superintendent or the Superintendent's designee in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction.

Disciplinary sanctions, up to and including termination of employment and referral for prosecution, will be imposed upon employees who violate the aforementioned standards of conduct. Sanctions for violation thereof may include the requirement that the employee complete an appropriate rehabilitation program, reprimands, and non-renewal, cancellation, or termination of contract of employment.

Employees shall be advised through employee publications about drug and alcohol counseling and rehabilitation and reentry programs that are available. Employees shall be furnished with a paper or digital copy of this policy.

This policy supplements and is in addition to all other policies, regulations, practices, procedures and contractual provisions regarding or related to the improper or unlawful possession, use, or distribution of illicit drugs and alcohol.

### Section 2 - Alcohol and Drug Testing

The District will implement regulations and practices which will insure compliance with the Omnibus Transportation Employee Testing Act of 1991, the Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) Act, and all regulations and rules promulgated pursuant to such Acts. Employees in "safety-sensitive" positions, as defined by the Act and regulations promulgated thereunder, including employees whose position requires a commercial driver's license (CDL), shall be tested for alcohol and controlled substances as required by law. Refusal to submit to such pre-employment testing, or testing positive, shall disqualify an applicant from employment. Reasonable suspicion, random, post-accident, return-to-duty, and follow-up testing shall also be conducted. Employees who test positive shall be immediately removed from safety-sensitive positions and shall be removed from employment.

### Section 3 – Controlled Substances and Alcohol Use and Testing: Federal Regulations, Scottsbluff Public Schools' Compliance Policies and Procedures, and Educational Materials

The U.S. Department of Transportation (DOT) and the Federal Highway Administration (FHWA) have issued regulations requiring that individuals who perform safety-sensitive functions and who are required to maintain a commercial driver's license (CDLs) be tested for controlled substances and alcohol and not engage in controlled substances use or alcohol misuse. Information concerning those regulations, Scottsbluff Public Schools policies and procedures, and educational materials relating to controlled substances use and alcohol misuse is set forth as follows:

1. The persons designated by Scottsbluff Public Schools to answer employee questions about these materials are the Superintendent and the Superintendent's designee.\
2. The categories of employees who are subject to the provisions of the federal controlled substances and alcohol use and testing regulations are individuals who perform safety-sensitive functions and who are required to maintain a commercial driver's license (CDLs), including bus drivers and distribution and maintenance employees who are subject to driving commercial motor vehicles.
3. The term "safety-sensitive functions" means:
  - a. All time waiting to be dispatched, unless the driver has been relieved from duty;
  - b. All time inspecting equipment or inspecting, servicing, or conditioning any commercial motor vehicle (i.e., a vehicle in excess of 26,000 pounds GVWR or designed to carry 16 or more passengers, including the driver) at any time;
  - c. All driving time (i.e., time spent at the controls of a commercial motor vehicle in operation);
  - d. All time, other than driving time, in or upon any commercial motor vehicle;
  - e. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
  - f. All time spent performing the driver requirements of 49 CFR §§392.40 and

- 392.41 relating to accidents; and,
- g. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
4. Employee conduct that is prohibited by the federal controlled substances and alcohol use and testing regulations includes:
- a. Alcohol Concentration. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
  - b. Alcohol Possession. No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol.
  - c. On-Duty Use. No driver shall use alcohol while performing safety-sensitive functions.
  - d. Pre-Duty Use. No driver shall perform safety-sensitive functions within four (4) hours after using alcohol.
  - e. Use Following an Accident. No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until the driver undergoes a post-accident alcohol test, whichever occurs first.
  - f. Refusal to Submit to a Required Alcohol or Controlled Substances Test. No driver shall refuse to submit to a post-accident alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substance test, or a follow-up alcohol or controlled substances test.
  - g. Controlled Substances Use. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.
  - h. Controlled Substances Test. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.
5. The circumstances under which an employee will be tested for alcohol and/or controlled substances pursuant to the federal regulations include:
- a. Pre-Employment Testing. Prior to the first time a driver performs safety-sensitive functions, the driver shall undergo testing for alcohol and controlled substances. No safety-sensitive functions are to be performed unless the driver has been administered an alcohol test with a result indicating an alcohol concentration less than 0.04, and has received a controlled substances test result from the medical review officer indicating a verified negative test result.
  - b. Post-Accident Testing. As soon as practicable following an accident involving a commercial motor vehicle, each surviving driver:
    - i. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or,
    - ii. Who receives a citation under State or local law for a moving traffic violation arising from the accident shall undergo a test for alcohol and controlled substances.

- c. Alcohol Tests. Shall be administered within two hours following the accident unless such cannot reasonably be done, and not more than eight hours following the accident.
- d. Controlled Substance Tests. Shall be administered within 32 hours following the accident.

A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. The driver shall be permitted to leave the immediate scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care, but shall otherwise remain readily available for testing.

6. Random Testing

- a. Drivers shall be subject to random testing. The minimum annual percentage rate for random alcohol testing should be 25 percent of the average number of driver positions, or such minimum annual percentage rate as established from time to time by the FHWA. The minimum annual percentage rate for random controlled substance testing shall be 50 percent of the average number of driver positions.
- b. The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method. Under the selection process used, each driver shall have an equal chance of being tested each time selections are made.
- c. The random alcohol and controlled substances tests shall be unannounced and the dates for administering random alcohol and controlled substances tests shall be spread reasonably throughout the calendar year.
- d. Each driver who is notified of selection for random alcohol and/or controlled substances testing shall proceed to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function at the time of notification, the driver shall cease to perform the safety-sensitive function and proceed to the testing site as soon as possible.

7. Reasonable Suspicion Testing

- a. A driver shall submit to an alcohol test when the employer has reasonable suspicion to believe that the driver has engaged in conduct prohibited by the federal drug and alcohol testing regulations (except for possession of alcohol).
- b. Under federal law, notwithstanding the absence of a reasonable suspicion alcohol test, a driver is prohibited from reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol and must not perform or continue to perform safety-sensitive functions, until:
  - i. An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or,
  - ii. Twenty-four hours have elapsed following the determination that there is reasonable suspicion to believe that the driver has violated the prohibitions concerning the use of alcohol.

8. Return-to-Duty Testing

- a. Alcohol. If a driver has engaged in conduct prohibited by the federal drug and alcohol testing regulations concerning alcohol and has not been terminated, the driver shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
- b. Controlled Substances. If a driver has engaged in conduct prohibited by the federal drug and alcohol testing regulations concerning controlled substances, and has not been terminated, the driver shall undergo a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use.

9. Follow-up Testing

- a. Following a determination that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the driver shall, if still employed, be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a substance abuse professional in accordance with the provisions of federal regulations.
- b. Random, reasonable suspicion, and follow-up alcohol testing shall be conducted only when the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.

10. The procedures that will be used to test for the presence of alcohol and controlled substances, to protect the employee and the integrity of the testing processes, to safeguard the validity of the test results, and to ensure that those results are attributed to the correct employee include the procedures outlined in 49 CFR 40, concerning procedures for Transportation Workplace Drug and Alcohol Testing Program, will be followed. This includes use of a "split sample" approach for drug testing and chain of custody procedures including documentation of screening aliquots.

11. An employee is required to submit to alcohol and controlled substances tests administered pursuant to the federal regulations.

- a. A "refusal to submit" to an alcohol or controlled substance test means that a driver:
  - i. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing;
  - ii. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing; or,
  - iii. Engages in conduct that clearly obstructs the testing process.

A failure to remain readily available for post-accident testing, or to notify the employer of the need for such testing, or to proceed to the test site immediately for random testing, may be deemed by the employer to constitute a refusal to submit.

- b. The consequences for refusing to submit to an alcohol or controlled substances test are as follows: A driver who has refused to submit to a required alcohol or controlled substance test is subject to the same consequences as a driver who has tested positive on an alcohol (concentration of 0.04 or greater) or controlled substances test.
- c. The consequences under the federal regulations for employees who have violated the federal regulations relating to controlled substances and alcohol use and testing include: The driver shall be removed from and not permitted to perform safety-sensitive functions. The driver shall be referred for evaluation by a substance abuse professional for a determination of what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances abuse.

Before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by the federal regulations, the driver shall, if still employed, undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance.

In addition, each driver identified as needing assistance in resolving problems associated with alcohol misuse or controlled substance use, if still employed:

- 1. Shall be evaluated by a substance abuse professional to determine that the driver has properly followed any rehabilitation program prescribed; and,
- 2. Shall be subject to unannounced follow-up alcohol and controlled substances tests administered by the employer following the driver's return to duty.

The driver may also be subject to the penalty provisions of 49 U.S.C. § 521(b).

- 12. The consequences under the federal regulations for employees found to have an alcohol concentration of 0.02 or greater but less than 0.04 include: Removal from safety-sensitive functions for a period of not less than 24 hours following administration of the test.
- 13. Information to assist employees in avoiding alcohol misuse and controlled substances use, signs and symptoms of an alcohol or a controlled substances problem, and available methods of intervening when such a problem is suspected: Information will be made available by the counselor to employees ~~upon request~~.
- 14. The requirement that the following personal information collected and maintained under this part shall be reported to the Clearinghouse:
  - a. A verified, positive, adulterated, or substituted drug test result;
  - b. An alcohol confirmation test with a concentration of 0.04 or higher;
  - c. A refusal to submit to any test required by law;
  - d. An employer's report of actual knowledge of:
    - i. On-duty alcohol use;

- ii. Pre-duty alcohol use;
  - iii. Alcohol use following an accident; and,
  - iv. Controlled substance use.
- e. A substance abuse professional report of the successful completion of the return-to-duty process;
- f. A negative return-to-duty test; and,
- g. An employer's report of completion of follow-up testing.

Legal Reference: [41 U.S.C. §§ 701 et seq.](#)  
[49 U.S.C. §§ 5331](#)  
[49 U.S.C. § 31306](#)  
[49 C.F.R. Part 382](#)

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